

**MINUTES OF THE  
GREENSBORO ZONING COMMISSION**

**MAY 10, 2004**

**REGULAR MEETING**

A regular meeting of the Greensboro Zoning Commission was held on Monday, May 10, 2004, at 2:00 p.m., in the City Council Chambers, Second Floor, Melvin Municipal Office Building, Greensboro, North Carolina. Members present were Chair Gary Wolf, Portia Shipman, Paul Gilmer, Bill Schneider, Janet Wright, Tony Collins, Brian Byrd and J.D. Haynes. The Planning Department was represented by Robert W. Morgan, Assistant City Manager, and Bill Ruska, Zoning Administrator. Bill Judge and Carrie Reeves represented Greensboro Department of Transportation (GDOT) and Blair Carr, Esq., represented the City Attorney's Office.

Chair Wolf welcomed everyone to the Zoning Commission regular meeting. He explained the procedures of the meeting. He further advised that the meeting was being recorded and also televised on Channel 13, and was being closed captioned for the hearing impaired.

**APPROVAL OF MINUTES OF THE APRIL 12, 2004 REGULAR MEETING.**

Mr. Gilmer moved approval of the minutes of the April 12, 2004 regular meeting as written, seconded by Mr. Schneider. The Commission voted 8-0 in favor of the motion. (Ayes: Wolf, Shipman, Gilmer, Schneider, Wright, Collins, Byrd, Haynes. Nays: None.)

**CHANGES IN AGENDA**

Marc Isaacson, Esq., 101 West Friendly Avenue, said he was here on Item B, which was a carry over from last month. This is a property on Battleground Avenue and the property is subject to a purchase contract. Unfortunately, there are several business issues that have not yet been resolved. There are some third parties involved and it is going to take a little more time.

Therefore, Attorney Isaacson respectfully requested a continuance until the next meeting.

Chairman Wolf asked if there was anyone in the audience who was intending to speak on Item B and no one came forward.

Ms. Wright moved that Item B under Old Business, an ordinance rezoning from Light Industrial to Conditional District - Highway Business with conditions as set forth in the application, be continued to the June meeting, seconded by Mr. Gilmer. The Commission voted 8-0 in favor of the motion. (Ayes: Wolf, Shipman, Gilmer, Schneider, Wright, Collins, Byrd, Haynes. Nays: None.)

Mr. Ruska was sworn in for all testimony to be given by him on this agenda.

**PUBLIC HEARINGS:****OLD BUSINESS**

- A. AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR AN ASPHALT PLANT AND ACCESSORY USES, INCLUDING OFFICE USES WITH THE FOLLOWING CONDITIONS: 1) PROPERTY WILL BE DEVELOPED IN ACCORDANCE WITH "PROPOSED SKETCH PLAN FOR SHARPE BROTHERS, INC." DATED FEBRUARY 12, 2004. 2) A 100-FOOT WIDE UNDISTURBED BUFFER SHALL BE PROVIDED ALONG THE ENTIRE FRONTAGE OF THE PROPERTY ON TARRANT ROAD AND SUPPLEMENTED WITH PLANTINGS WHERE NECESSARY TO ACHIEVE A TYPE A PLANTING RATE. - FOR A PORTION OF THE PROPERTY LOCATED ON THE EAST SIDE OF TARRANT ROAD AND WEST SIDE OF BOULDER ROAD NORTHEAST OF BEECHWOOD DRIVE – FOR RALPH D. AND BERRY T. STOUT. (CONTINUED FROM APRIL 12, 2004 MEETING) (DENIED)**

Chairman Wolf said Mr. Byrd and he would ask to be recused from consideration or voting on this item. Mr. Byrd's law firm represents the applicant. Chairman Wolf's law firm represents one of the property owners.

Ms. Wright moved that Chairman Wolf and Mr. Byrd be recused from consideration or voting on Item A, seconded by Mr. Schneider. The Commission voted 6-0 in favor of the motion. (Ayes: Shipman, Gilmer, Schneider, Wright, Collins, Haynes. Nays: None. Abstain: Wolf, Byrd.)

Chairman Wolf said Vice Chair Collins would act preside over the meeting for Item A.

Mr. Ruska stated that this request is to obtain a Special Use Permit for an Asphalt Plant and accessory uses, including office uses. He presented a map of the area and slides of the subject property and surrounding properties.

The property is zoned Heavy Industrial and this zoning classification permits asphalt plants with approval of a Special Use Permit.

**SPECIAL USE CONDITIONS FOR THE REQUESTED SPECIAL USE PERMIT**

- 1) Property will be developed in accordance with "Proposed Sketch Plan for Sharpe Brothers, Inc." dated February 12, 2004.
- 2) A 100-foot wide undisturbed buffer shall be provided along the entire frontage of the property on Tarrant Road and supplemented with plantings where necessary to achieve a Type A planting rate.

**DESCRIPTION OF THE PROPERTY, SURROUNDING LAND USE AND ZONING**

This property consists of approximately 5.5 acres and is located on the east side of Tarrant Road and west side of Boulder Road northeast of Beechwood Drive.

Vice Chair Collins asked if there was anyone present who wished to speak in support of this request.

Charlie Melvin, Esq., 300 North Greene Street, was sworn in and said he represented the Stouts, owners of the subject property, and Sharp Brothers, Inc., which, if this Special Use Permit is granted, will operate the asphalt plant. He said Mr. Ruska had outlined the location of the property, the size of it and its general location. Working with land use items over the years, he had found that certain land uses generate a negative reaction in people's minds. Some of those are rock quarries and asphalt plants. Before they filed this request, they had several sessions with the staff regarding zoning in the area. They explored the Comprehensive Plan. The parties in this with whom he had been working assured him from the beginning that they have carefully evaluated this site and that they had many years of experience in their business and they were satisfied that this operation could go on this particular site without any adverse impact on anyone, including the close by neighbors. They proceeded to talk with a number of people. After the continuance that was granted last month, they had one other meeting with those who were concerned and were in opposition to this request. As a result of that, he would ask the Zoning Commission to add a few additional conditions. Mr. Ruska read the matter of the 100 foot wide undisturbed buffer along Tarrant Road. He said he would like to add to that condition at the end of it the following:

- 2) That a chain link fence will be provided on the inside of this buffer.
- 3) Stock pile area (aggregate or stone used in the manufacture of the asphalt) shall not exceed the maximum height of the plant itself.
- 4) A street planting yard having the minimum width of 16 feet be provided along Boulder Road and shall contain a fence, again on the interior or inside of that buffer.

Ms. Wright moved that the above conditions be added to the original request, seconded by Mr. Gilmer. The Commission voted 6-0-2 to approve the added conditions. (Ayes: Shipman, Gilmer, Schneider, Wright, Collins, Haynes. Nays: None. Abstain: Wolf, Byrd.)

Attorney Melvin said the map on the screen was an excerpt from the City's zoning map and showed the location of the subject property and that they had scaled the distances. From the subject site, it is about 2400 feet from the site to an existing asphalt plant that has been on the Martin-Marietta site for many years and Mr. Clayton was responsible for the operation of that plant. To the best of his knowledge, it has been there all those years without any damage, injury or complaint from the neighborhood. Then there is another distance there that goes to the east, which shows the distance from that existing asphalt plant to the beginning of some Charlestowne Condominiums that were started many years ago by Pierce Homes. They are continuing to this date to build condominiums in that area. Unfortunately, those first ones are to be taken by Painter Boulevard. Hundreds of condominium units have been built there, sold and they are within a few hundred feet of the quarry itself. To the best of his knowledge, there has never been any complaint about the asphalt plant or the quarry operation itself. He thought that in spite of the negative images that were portrayed or projected when we hear "rock quarry" or "asphalt plant," they can be operated in a manner that is compatible with particular neighborhoods. He also had put on the monitor an aerial photograph of the same area. That is an extensive rock quarry owned by Martin-Marietta for many, many years. It has been there since time immemorial. Proximities of rock quarries or aggregate quarries are just

a necessary correlation because the gross cost of either aggregate rock or asphalt is in the transportation cost. Since aggregate is the biggest part of what is used in the manufacture of asphalt, the closer you can get the plant to the source of the aggregate, the less your cost of producing that asphalt will be. He introduced Ivan Clayton, who, if this Special Permit is granted, will be responsible for the operation of this particular facility.

Ivan Clayton, vice president of Sharpe Brothers, PO Box 15608, Greensboro 27416, was sworn in. He then informed the Commission of his background, all of his career having been in asphalt or the producing of asphalt. He had had the responsibility of the majority of the asphalt plants in Guilford County until this past November. He felt that all of them had been operated responsibly. These plants have been restricted or governed by the local authority. The permits will be air permits or storm water runoff permits, and all of that was complied with at all the plants that fell under his responsibility. The plants are inspected randomly or on a regular random basis so they do have to be in compliance or they are shut down immediately. Their business plan targets the smaller market, the private and commercial market. They are not interested in the Urban Loops and FedEx and such things. Those would not be the targets of their business plan. There is a need for another asphalt plant here. He felt that asphalt production is at its peak right now. We are very fortunate in this area to have the funding that we have for the expedited Loop projects and the Governor is moving ahead money that is in place out here now for some of the intersection widenings and those kind of things. There is a lot of need for asphalt right now in this particular area, in a 50 mile radius. He felt this was a good area for this plant, mainly because of its proximity to Martin-Marietta's quarry and also because of the access to I-40 and Wendover. They could go into Greensboro or into High Point. There have been some concerns mentioned about hauling through Piedmont Center. As he had said at some of the meetings they had before, he saw no need to go through Piedmont Center since that would be cost-prohibitive. He thought with the new routes they could take at Boulder Road, across the new bridge, across the Interstate and going out Wendover in that area, these would be the truck routes and not through Piedmont Center. There is no need to go into Piedmont Center unless there is work to be done there.

Mr. Clayton said that Attorney Melvin mentioned there was an asphalt plant nearby. That plant has been there for almost 40 years and has gone pretty much unnoticed and it is within 2,500 feet from the subject site. The new asphalt plant will be a moderate size batch plant.

Mr. Beshears will give more specifics about the subject plant. It will not run at capacity, which is 300-360 tons an hour. That is about half that plant's capacity. If you break that down to the number of trucks per hour or per day that would come in and out of this facility, it would be about 10-15 trucks per hour or about 180 tons per hour production of hot mix.

David Beshears, Senior Vice President of Technology for Tenco Industries, the manufacturer of the hot mix facility that is intended for this location, was sworn in. He said he was a professional engineer, registered in two States, Florida and Ohio. He had been with Tenco Industries 26 years. He had seen literally hundreds of hot mix asphalt plants. The asphalt plant that is in close proximity to the proposed plant was manufactured by their company, Tenco Industries. They have quite a few plants in North Carolina so they are very familiar with the requirements in the State, both DOT and DEP requirements. Their company traces its roots back to the late 1800s, when they started building hot mix asphalt plants, so they have been in this business a long time. He then explained what "hot mix" asphalt was. He said 95

percent of the roads that you drive on are really just rock and only 5 percent is the asphalt cement that holds it together. In the process, they take the aggregate, dry it and heat it, and then they mix the asphalt cement with the aggregate. That is all they do. It is not a chemistry set. They are not formulating asphalt. It is not an oil refinery or a chemical process. Basically they are drying rock and they are mixing asphalt cement with it, putting it in trucks and taking it to job sites.

He then explained why the subject site was a good location for this plant. One reason this is a good location is that it is right next to the quarry. Ninety-five (95) percent of what they will use in their product will come from that quarry. Since the subject property is zoned Heavy Industrial, it makes sense that this would be a good location, both for economic reasons and for the good of the community. He then explained some of the concerns for having this hot mix asphalt plant on the subject site. He had served for many years on the Emissions Taskforce for the National Asphalt Paving Association. This is a trade association and obviously biased. When the Clean Air Act was passed, the National Association did a lot of work in conjunction with the Federal EPA in actually testing and showing that hot mix asphalt plants are not heavy polluters. In fact, hot asphalt plants were pulled from a list of industries classified as potential major sources. After all the testing was done by the Federal EPA, they decided the amount of emissions from their plants was such that they are not major pollutant sources.

Jim McNairy, 1616-A Battleground Avenue, was sworn in and stated he was a real estate appraiser and has been such since 1976. He had looked at the area, looked at the subject property and he could not see any harm that this proposed plant is going to do to adjoining properties or neighborhood properties.

Sony Shipman was sworn in and said he was the owner of Shipman Trucking Services in Burlington, NC. He was asked to speak on Sharpe Brothers' behalf because he was a small business that relies on these asphalt plants for material. He repaired highways when they do water lines and have to cut the asphalt. On a recent job in Winston-Salem, he had to go as far as Durham to obtain the asphalt that he needed. The proposed plant will be a "batch" plant so it could make whatever amount he needed very quickly. This would be a very good location, both economically and in helping him get what he needs to get done. When people want you to do work, they want their paving done immediately. So the close proximity of the subject plant would help him a lot.

Attorney Melvin returned to the podium and said that if any member of the Commission had a question of any of the speakers so far, they would be glad to answer them. Due to the time involved, they had wanted to keep the presentation brief and to the point. By the same token, they wanted to make sure that if the Commissioners wanted any information pertinent to their evaluation of this request, the speakers would be happy to answer their questions. He said he did think that based on what the Commission had heard and based on these gentlemen's experience, that this plant can be placed at this location and operated without any injury or harm to anybody and, very importantly, can serve a niche that is presently not available in this vicinity. They think it will be a very good added facility and think the location is the right location for this type of operation. The design standards for the City of Greensboro must be

met. Then the State has to approve the air emissions. Not only is that a part of the approval

process, but then they have regular random inspections to assure the continued approval of this facility.

Attorney Melvin said he thought they had addressed the concerns of the Piedmont Center. There will be no access to Tarrant Road and a 100 foot buffer that will be supplemented with additional planting will be provided. So they think this operation is removed adequately from Piedmont Center.

Vice Chair Collins asked that all speakers in opposition to this request to come forward.

Mike Fox, Esq., said this being a quasi-judicial hearing, there was the opportunity for each side to question the witnesses who testified under oath. He wondered what would be the Commission's procedure for doing that. Should they do that now?

Counsel Carr said the Commission could set whatever rules it wants. She agreed with Attorney Fox that there was time to do that. She thought she might caution the opponents who wish to cross-examine, that depending on what the Commission's view is, that may eat up some of their "presentation time." But again, that is a rule the Commission can set. She said 99 percent of the time, the Commission was dealing with legislative issues. This is a quasi-judicial issue of a Special Use Permit.

Mr. Schneider said the Commission had never permitted cross-examination in the middle of a hearing. If the Commission wanted to, that was fine.

Ms. Wright said her sense was that she would like to see it happen at the end because some of the questions may get answered within the rebuttal period. She thought that after the Commission has heard all of the speakers, if they still have questions, she would welcome them at that point.

Attorney Melvin said he had forgotten to mention that they had had two group meetings and a number of individual ones. They have offered to meet and talk with these folks at any time they wished to do so.

Mr. Haynes said he had never seen it done, but he had no problem with it during the 25 minute period or at the end, after the rebuttal.

In response to a question from Vice Chair Collins, Attorney Fox said his presentation would take about 20 minutes and there were some folks from the City of High Point here who would take about 5 minutes. So combined, he thought all the people would take that much time.

Vice Chair Collins said what he would like for them to do was during the presentation, if they could ask the questions. There is a rebuttal period for both. Let's see if they give answers and if not, then will consider at that point in time continuing beyond the original 25 minutes and rebuttal period.

Mr. Gilmer said he would not be agreeable with that. He thought the 25 minutes and 5 minutes

of rebuttal would be fine. He didn't want them to start doing something that they would have to continue doing in the future.

Ms. Wright said they were entitled to the questions, we have to do that. It was only a matter of when the Commission did that.

In response to a question from Vice Chair Collins, Counsel Carr suggested that they meld the two procedures. The one procedure you have right now is to allow each side 25 minutes plus a 5 minute rebuttal. She thought it was a well reasoned opinion of the Vice Chair that to the extent that Ms. Wright is correct and some of the answers may come out during the rebuttal period, then you allow for questions thereafter. That was only a suggestion; it was up to the Commission.

Mr. Schneider said if they were going to allow after, they needed to put another time limit because they would end up going into another 25 minute presentation afterwards.

Attorney Fox said if it helped, he would be happy for them to do their presentation and then after that, depending on whether there are questions, he would like the opportunity to ask those questions. He did not think his questions would be lengthy.

Vice Chair Collins asked Attorney Fox if he had specific questions now, did he have 4 or 5 questions? They were just trying to get a grasp on the time and try to develop the procedure here. He said they were not trying to limit him. He just wanted everyone to understand what they were attempting to do.

Attorney Fox said he thought he could limit his questions to 5 to 10 questions. The dilemma becomes, he doesn't know how long the answers would be.

Vice Chair Collins said he would like to proceed with Attorney Fox's presentation in their 25 minute time period. At the end of that, let's see where we stand and give us a few minutes to sort this out anyway. He said the Commission would hear what Attorney Fox's objections are to the request and then they would go from there. He asked if there were any further questions at this point? There being no one, he said they would proceed.

Attorney Fox said he thought the people from High Point wanted to start first.

Rebecca Smothers, 1813 Country Club Drive, High Point, was sworn and said she was the Mayor of the City of High Point. She was here to present to the Commission a letter, which she thought Mayor Pro Tem Alexander had passed out to the Commissioners. This regards the concerns regarding the zoning application submitted by Ralph and Berry Stout that is on the agenda. She said also in attendance was Councilwoman Laura Wiley, who represents the City of High Point in this particular district. She asked that in spite of what may have been recommended by the Planning Department, and she was unsure what their recommendation was at this time, they respectfully ask that the permit be denied. They object for three important reasons: Incompatibility with existing land uses in the area, public safety and watershed concerns. She said they recognized that there were other heavy industrial uses, but not of the magnitude of a smelly, noisy asphalt plant. They were very concerned that

Greensboro zoned this property in 1998 to HI after much of the development of Piedmont

Center had taken place. As you can see from the map, there is an adjacent piece of property to the south that is also zoned HI and she shuddered to think about what would be put there if you were going to put an asphalt plant on the subject site. She suggested that also both communities should perhaps look at the zoning as their boundaries are co-terminus and she suggested that their Planning Departments could do that. Her other question was why, when your own heavy industrial zone is designed for uses that may have significant environmental impacts, would you put this in a primary water supply. Their development options have been severely crippled by the imposition of regulations for the Randleman Reservoir and they ask that the Commissioners consider their responsibility in putting a use such as this that could have detrimental environmental impacts. They also suggest that while they may have findings that would support this request, that they would be suspect or questionable. She said they would ask for the Commission's consideration of denial.

Mike Fox, Esq., 228 West Market Street, was sworn in and said he represented the East Piedmont Park Association. He said he had put on the monitor the findings that the Commission would have to make in order to approve this request. He said he underlined the word "each" and that meant all of those had to be found by the Commission. He then put on the screen the additional requirements that the Greensboro Development Ordinance requires for asphalt plants. You have what has to happen after the site is gone and then you have special concerns: dust and access. At this point he submitted that just on its face, he thought the applicants had not met the test of complying with all of the requirements because he didn't think there had been any plan submitted that shows the truck routes to and from the site. That is a requirement in Section (F(3) there. He submitted that it would be impossible to make any sort of determination until you see that. He presented an aerial photo of that area. He had outlined in yellow the proposed site. What he would like to point to were the areas around it. You will see various folks here talking today who own businesses and properties near that area. What he wanted to leave the Commission with in terms of the pictures. In looking from north to the south they could see the Piedmont Center. He hoped the Commission would be left with the view of a nice corporate park that is developing the type of jobs that, as a City, we are trying desperately to lure. As a matter of fact, we are even paying the centers to get jobs there and what he would ask the Commission to question was whether or not putting an asphalt plant on a postage stamp size site is going to encourage that or discourage it and whether or not it is going to be in harmony with that use. He said the Commission would hear from a variety of residential and business owners, as well as a traffic engineer who has done a study of this area.

John Davenport, president of John Davenport Engineering, 2441 Kings Gate Drive, Winston-Salem 27101, was sworn in and said Mr. Fox contacted their firm and asked them to take a look at, from a traffic perspective, what would be the compatibility of placing an asphalt plant in the current existing corporate neighborhood. So they wanted to take a good look at what was going on out there. Granted, from their investigation they understood that Chimney Rock Road carries a lot of heavy truck traffic and Tarrant Road is a very busy road also. However, they wanted to get a good idea of what was going on on Boulder because that was where the plant was proposed to be located. With that, they took a mechanical classification count on May 5th of this year and that would place it on two locations. (Mr. Fox showed a picture of these locations.) They took a count on Boulder near Chimney Rock Road and they took one to the south near Pharmagraphics. A vehicle classification count was basically what they were

trying to do to determine the different type vehicles that are using the roadway, whether they



are trucks, buses or cars, etc. What they were able to determine from that was about 85 percent of the vehicles (there were about 1,000 vehicles counted) were passenger cars. Only about 7 percent of those were tractor-trailers. If you look at the screen, the little yellow pie-shaped object, which is 2 percent, is the percentage of vehicles that are in the size and weight category of the asphalt trucks. So there are about 2 percent of those heavy-type vehicles on that roadway currently.

Based on information provided to their firm by the attorney and by some of the others working on this project, they were informed that the asphalt plant would produce about 60 to 70 round trips, although he thought they stated it might be a little more, but 60 or 70 round trips turns into about 130 to 140 trips per day, if you look at it the way their profession would look at it. If you just took 90 percent of that and say 90 percent of those trucks are actually trucks and the rest of the other 10 percent are passenger cars, then they would be looking at approximately 126 more trucks of that type on that roadway. Looking at the chart, that would mean a 700 percent increase in heavy truck traffic on that road. From a compatibility standpoint, the corporate neighborhood is currently not experiencing a heavy volume of these types of trucks, but if you add an asphalt plant on that facility, you will experience 7 times more vehicles of that type in that classification. This would most probably have some affects in terms of damage and things of that nature. Secondly, in terms of the fact that the petitioner stated that there are only about 20 percent of these vehicles that would be controlled by the company, the other 80 percent cannot be told how to come to and from the site. So when you begin to talk about whether they will use Piedmont Parkway or not, the petitioner does not have control over 80 percent of those vehicles and they will use whichever route is convenient. As could be seen from the map, it would be a very nice cutover to NC 68. It is being extended over to Wendover so it would be very difficult to see why they wouldn't use a 4-lane divided road like that.

Attorney Fox said they had formal reports that they would hand out to the Commissioners at the end of their presentation.

Vice Chair Collins said there appeared to be 9 more speakers and just wanted to point out that they have about 14 minutes, so realize there are other people as you come up.

Jerry Potter, 4161 Piedmont Parkway, was sworn in and stated that he worked for Trammel-Crow Company as the property manager for Bank of America's triad center facility at 4161 Piedmont Parkway in the Piedmont Center Business Park. He said he was here on behalf of the property owner. Bank of America has been in this location since 1994. This property consists of over 46 acres, all of which is landscaped, including the parking lot that surrounds a brick office building just under 400,000 square feet. They are in a park-like setting. They have their own walking and jogging trail around the perimeter from which there is paved access to a public trail that is in the High Point Watershed refuge. The refuge has walking trails and a stream that passes through this part of Piedmont Center Park. They at their facility also have an outdoor dining patio. The rest of Piedmont Center is also attractively landscaped with flowerbeds, fountains, well-maintained grass lawns and medians. With Piedmont Parkway being the closest and most direct access from the proposed asphalt plant site to Highway 68,

they are concerned with any negative impact to the aesthetics of their area and to the traffic

and physical road conditions that might result from asphalt trucks using Piedmont Parkway, Regency and Tarrant Roads, which are their main accesses.

Norman Dunlap, 4229 Beechwood Drive, was sworn in and said he was the branch manager for Atlantic Packaging. They have a 21 acre site located directly across the street from the proposed plant at the corners of Tarrant and Beechwood Roads. They have 45 associates at the Greensboro location of Atlantic and they are currently expanding their 150,000 square feet by 50,600 square feet. It is their intention to bring a precision dye-cutting sheeting and converting operation into the Greensboro facility at the expense of approximately \$5 million in capital equipment. This will bring their facility to nearly 200,000 square feet and they will employ approximately 55 Atlantic associates. They are greatly concerned about the operational integrity of their equipment being in such close proximity to the proposed plant, as well as the adverse impact that physically seeing the plant will have on their property value. The proposed site is on the high side of Tarrant Road as it relates to their facility, with an approximate 20 foot elevation change between their front door and the Stout property line. They respectfully ask that the Commission reject this application.

Cynthia Bowles was sworn in and said she represented SedCom. Their company is located at 4230 Beechwood in the Piedmont Center. SedCom employs 105 people. It provides state of the art technology based solutions in the area of communication and security, protecting places from terrorism and loss prevention. They come opposing the application to operate an asphalt plant near their facility. They are extremely concerned about the impact that heavy trucks will have on the traffic and safety of their employees as they commute to and from work. The Piedmont Center Corporate Park is a positive environment, conducive for continued real estate investment. However, the addition of the proposed asphalt plant would have a negative affect on business, potential growth and expansion, as well as future investments. SedCom purchased this property with long-term expansion in mind. Future investment and expansion and renovations are estimated at \$33 million and assuming their targets are met, the next plans for expansion would implement around 2006 and 2007. Long-term expansion goals would be the creation of 300 jobs to the area. However, these plans are on hold, pending the decision on the asphalt plant. They urged the Commission to reject this application.

Carl Trulove, 3817 Buncombe Drive, was sworn in and said he was the CEO and the owner of Pharmagraphics, which is located at 1072 Boulder Road, which is just down the road from the proposed site. They have been there for just over a year. Their company employs 160 people at the Boulder Road site, as well as about 400 people in 6 other locations outside the Triad. They manufacture the kind of package labeling that goes on pharmaceutical products. Any pharmaceutical product that you buy in the United States or Canada requires the kind of labeling that they produce. The facility operates 20 to 24 hours a day, 5 days a week and occasionally on weekends. Pharmagraphics is very concerned about the possible location of an asphalt plant just down the street from their new building. In particular, the odor that the plant will create will affect their customers when they visit us and make decisions about doing business and also will affect their employees negatively. They are also concerned about asphalt plant traffic. Employees both entering and leaving their parking lot are going to have to contend with these asphalt trucks speeding down Boulder Road. If they're not extremely careful, their employees driving out of the parking lot could easily be hit by a passing truck.

Pharmagraphics has plans to expand its operations on that site on Boulder Road. The

company is growing and one of the reasons they located there this past year was the availability of additional land. Over the past 5 years, their company has doubled in size and he expected similar growth prospects in the next few years. In order to accommodate that growth, it is likely the company is going to need to do a physical expansion on the site and to add 50 to 100 additional jobs. He said he could say confidently, however, that they will not invest in additional buildings or add employees on the site if this asphalt plant is built. Instead, they would redirect their investment to one of their other sites. They urged the Commission to oppose this plant.

Bill Ashley, 4208 Cabarrus, was sworn in and stated that ProFab, Inc., a general mechanical and electrical contracting firm is currently located in High Point. They plan to relocate ProFab's corporate headquarters to the East Piedmont Park site where they have purchased land. This relocation will transfer approximately 60 jobs to their new building. Payroll for this location will be several million dollars. The East Piedmont site was chosen specifically because of the location and quality of complimentary businesses in the area. They were comfortable that the East Piedmont Park would continue the current trend to compliment the harmony of the entire area and this business. With cohesive and well-planned use, this area is especially attracting developing regional businesses seeking relocation. As a result of the pending decision to determine if the proposed asphalt plant will be allowed in the East Piedmont Park, they have put their project on hold until final determination of the impact and presence an asphalt plant will make upon the current property owners, businesses and the area standards for future growth. Competition for businesses in our current economy is fierce and the precedent this Commission sets for East Piedmont will dictate the future growth and new businesses deciding whether to establish a presence in this area.

Rodolph Gibbs, 4020 Still Brook Lane, High Point, was sworn in and stated he and his wife own the property at 1417 Boulder Court, which is approximately 2.5 acres. Their current tenant has been in the building for 5 years and employs 135 people nationwide, with 26 at this location. Plans to add 25 more people here and to expand the building are now on hold. They have already invested \$75,000 in additional upfits to the building to support their current staff and for cleaning purposes, bringing in sales and support people from all over the country. They sell high-end medical equipment to hospitals and doctors' offices from coast to coast and provide a private, good deal of conferencing service from this facility. In this location, they saw a pleasant environment in which to conduct business and adequate ground area in which to expand. The possibility of extending Boulder Court to intersect with the new Piedmont Parkway Extension was also a positive factor, but now it has become a major deterrent due to the threat of heavy use by large asphalt dump trucks. They say they will relocate if the asphalt plant is built on Boulder Road. He asked that the Commission please do not sacrifice their area for one, unsightly, smelly and undesirable business.

Carlos Black, 402 Utah Street, Beaufort, SC, was sworn in and stated he was the president of Machine Specialties, Inc. They employ 45 persons and their business is to manufacture very precise and critical metal components for aircraft, medical instruments, space hardware and other uses. If you have traveled in an airplane lately, more than likely MSI made a contribution to your safe arrival; the same if you have surgery. They built their facility and moved to 1030 Boulder Road 27 years ago in 1978. After four expansions, they ran out of land and they built a state of the arts 36,000 square foot facility next door at 1034 Boulder Road. They moved

into that facility last summer. Their old building is available for rent. It is a perfectly good

industrial building, fully air-conditioned. It has been waiting for a tenant for nearly a year. Their agent, Carl Essa, had a good prospect, a printing company. They put their plans on hold because of the possibility of the approval of this asphalt plant. Your approval of this asphalt plant will result in serious financial hardship for them. Their neighborhood was coming along nicely. Most of them have well-tended lawns, they have planted trees and shrubs and, in general, the appearance of the place has improved a lot in recent years. A good portion of their equity is invested in Boulder Road. It is clear that this asphalt plant will devalue their property.

Roy Edwards, 611 Chimney Rock Road, was sworn in and said his property has a small pond on it that could get runoff from the proposed asphalt property. He has a 4 year old son who will start school in August at Phoenix Academy in the Piedmont Center. There are other children in his neighborhood, their ages ranging from 9 months to 9 years old. All the residents on Plantation Farms Road are on wells and septic tanks, which could be affected by this project. He presented an image of what they had told them the new plant would look like and also an image of what the existing plant on Chimney Rock Road looks like. It should be noted that the existing plant has a lot more buffers and cannot be seen from the road. The County has recently extended the Bicentennial Trail along Chimney Rock and Boulder Roads at a cost of approximately \$1.5 million. Having an asphalt plant here would generate more truck traffic, which will cause safety problems and also generate more repair expenses to repair potholes. The residents in this area do not want this in the neighborhood.

Larry Queen, 4018 Watauga Drive, was sworn in and stated he owned 5 acres of undeveloped property adjoining the south border of the property that is being considered for an asphalt plant. His property fronts on Tarrant and Boulder Roads. He was opposed to this Special Use Permit application and the asphalt plant because he believed it would substantially injure the value of his property. He based his opinion on his experience as a licensed real estate broker before he retired and many years of business experience. He believed that the asphalt plant is totally inconsistent with the fine, modern plants and offices immediately around his property. If this asphalt plant is approved, the potential use for his property will be severely limited because of the noise, odor and the potential for environment problems. The traffic from the asphalt plant would also materially impact his ability to sell the property. He urged the Commission to reject this request.

Attorney Fox said that was all their speakers, so he would summarize. In summary, he would like to encourage the Commissioners to look at what is in this area already, what this area is developing to be, what it ideally could be and then decide if this is in harmony with the area there. There is no dispute that there are some heavy industries already in that area; there is a rock quarry, an existing asphalt plant. The difference is the buffer, it is extensive. That was one of the questions that he intended to ask the applicant. Since he works for the existing asphalt plant, what is their buffer? And this is on a postage stamp; this is only 5 acres. That will tower over anything else in that area and you will be able to see that from 68 and from 40. He thought that there was no doubt that this is not in harmony with what is developing as a nice corporate park, actually the extension of the Piedmont Center, and he thought he would encourage the Commission to encourage that type of growth, rather than an asphalt plant, which will discourage any further growth.

Vice Chair Collins said three or four of the speakers referenced "East Piedmont Park." Is that

something that is formal? Is it a designated area?

Attorney Fox responded yes. He had one of the aerial photographs returned to the screen and said that East Piedmont Park roughly was the area to which he pointed. Basically East Piedmont is the area that incorporates Pharmagraphics, ProFab, and some additional property right in there that is formally incorporated as a park.

Vice Chair Collins said he would entertain 5 minutes of rebuttal from the applicant.

Attorney Melvin returned to the podium and said that most of the things that Mr. Fox indicated and some of the speakers indicated they are pretty much in accord with. He had the privilege of working with Laura Essa, the people who started the Piedmont Center. It has been a great development. The people with whom they had met and talked feel very strongly that the real issue here is, for instance, the Mayor of High Point said it was going to be smelly and noisy and several other people made references to that. The real issue is a modern technically advanced asphalt plant, meeting all the regulations and the design standards of the City of Greensboro and requirements of the State of North Carolina for emissions. There are no other emissions from an asphalt plant. There are no liquids or anything that come out of it. The only emission is the emission of air and if any member of the Commission wants to pursue it further, Mr. Beshears can tell them about that better than he could. There is no smell that will eliminate from this plant that would transfer to other plants and he thought the existing plant must be some indication of that. This facility will have to meet all the water quality standards of the City of Greensboro, which will be a pond on site and the usual things. As Mr. Ruska has indicated, if the Special Use Permit is granted, they will have to submit an additional site plan and the truck route matter will have to be included as a part of that. They consulted GDOT before filing the request and a TIP was not triggered. He thought the area was extremely important. It is a Heavy Industrial area. The staff recommendation that you will hear indicates that it is compatible with that area. They think that it is compatible with that area. You heard Mr. McNairy, who they employed to give a detailed view of his feel about whether it would adversely affect neighboring property values. Mr. McNairy is a very experienced appraiser in this area and his indication was no. Quite honestly, if he had come in with a different report in the beginning, they would not be before the Commission today because that is one of the things that they have to offer and that is that it will not affect values. People have a negative response to the words "asphalt plant." They think that they have offered a lot of evidence to the Commission during the time restraints that they have that this asphalt plant, the type that is planned there, would be very important to Mr. Shipman and the way he makes a living in his trucking business. They think that the Commission had heard speakers say that this will not endanger the public health. It has to meet State standards for safety. The trucks are a factor, but it will have to meet all the requirements of GDOT. They think that the staff's favorable recommendation that it will meet all the restrictions imposed. Mr. McNairy has given his opinion as to the non-affect on property values, and they think that is an extremely important part of the Commission's consideration. The staff recommendation will show that it is in harmony with the Greensboro's Comprehensive Plan for the area. They think it will be a good addition and a necessary element of the City's continued growth and expansion and hope that the Commission will see fit to approve the requested Special Use Permit.

Vice Chair Collins said he would entertain 5 minutes of rebuttal from the opponents and then they would discuss the other issue before the Commission of how they wish to do the

questions.

Attorney Fox said actually he thought he could address most of the things in his 5 minutes, so he did not know that that would be necessary. One of the things that he would like the Commission to focus on are the required findings, and he would remind the Commission that they have to find each of those positively or you cannot grant the Special Use Permit. He would highlight particularly the last one. That the location and character of the use will be in harmony with the area in which it is to be located. What he would do would be to encourage the Commissioners to look at the photo on the screen. He said they have a choice here in Greensboro. This is a unique little area of the County, the City of High Point and the City of Greensboro. The Commission has an opportunity to decide how all those green areas are going to be developed within the next 20 years. Their contention is that if you put an asphalt plant right on that site, you will not get anything better than an asphalt plant beside it, near it or within sight of it. But if you don't allow an asphalt plant there, then you will get expansions like have been talked about here today, you will get people coming in and maybe even putting something on that site that is very much like what is across Tarrant Road and what is down Boulder Road. Those are the types of the jobs that every community is looking for. One of the things that was not mentioned was how many people would be employed at this asphalt plant. Well, the answer is 3. And that is far less significant than any number of these expansions that it is holding up. These jobs that are already in that area, those are the good paying jobs with benefits that everyone says that we need in this area.

Attorney Fox said what he would also ask the Commission to do was also consider the article in the Sunday paper, which said, "Lessons from RTP." It talks about how successful they are. He would guarantee the Commission they would not have that success if they had an asphalt plant right in the middle of it. The other thing that is important to focus on is what the applicants haven't said. He would agree that Mr. Melvin and his clients have been very generous with their time in meeting with the opponents and have made a genuine attempt to answer all their questions and concerns. But as Mr. Melvin indicated earlier, they have not convinced the opponents that there is any way that this is going to be compatible with what is already there. He handed out to the Commissioners a document, which he said was something taken from the Department of Environment and Natural Resources' records in Winston-Salem. He believed they had heard Mr. Clayton testify that he previously ran asphalt plants and all of them were operated responsibly and all of them complied with the regulations. He had intended to question Mr. Clayton extensively about that, but he thought this document would do the point. On the last page is a letter signed by him when he was in charge, division president of APAC and it is addressing some environmental violations that they have had. So he thought that speaks for what was not said and perhaps goes to the credibility of whether or not this will have an environmental impact. The last point he wanted to make was about the truck traffic. When they met with Mr. Melvin and his clients, they indicated that only about 20 percent of the trucks that came in here everyday would be actually Sharpe Brothers' trucks. They asked them what routes would be used and he loved the response they got. Mr. Clayton, being very honest in that regard, said, "Well, you know those asphalt drivers want to go wherever they've got to go as fast as they can and they use the shortest routes." He certainly thinks that means that they won't go where they are supposed to drive and if it's shorter to go through Piedmont Park, then that's where they are

going to go. He said he would remind the Commission, if it flipped back through their slide show, there are several daycares in Piedmont Center. There is a school where Mr. Edwards'

child is going to go. That is right there in Piedmont Center. The folks who designed Piedmont Center and the folks who work and live there now, they certainly understand there have to be paving trucks in the world, but they certainly didn't build those roads for them to be a primary access point and this is just not an appropriate place for this asphalt plant.

Vice Chair Collins asked if there was a motion to close the public hearing?

Mr. Gilmer moved that the public hearing be closed, seconded by Ms. Wright.

Mr. Morgan said this area has become predominantly zoned heavy industrial over time. The tract south of and adjacent to the subject property was rezoned to Industrial H by the Zoning Commission in September 1987. The tract located at 1037 Boulder Road, east of the subject property, was annexed and originally zoned Industrial H on June 30, 1989. Heavy Industrial zoning is the most appropriate zoning designation for an asphalt plant. In light of the amount of building and highway construction that is currently underway and pending in the Triad, it was logical to have an asphalt plant in the area. However, the land directly to the west and south is part of the City of High Point's Piedmont Center Office Park. In order to respect the campus-like setting of the Office Park, staff recommended that the proposed asphalt plant maintain an undisturbed wooded buffer along its western property line. As a result the applicant has added a condition providing for a 100 foot wide undisturbed buffer along the entire Tarrant Road frontage. This condition also provides for supplemental plantings where necessary to achieve a Type A planting yard. The sketch plan filed with the request shows that the building would be located in the eastern side of the tract, with an orientation to Boulder Road. Two driveways are shown, one that accesses the asphalt plant and the other that accesses a separate office building and a small garage and storage building located behind it. These building locations will provide maximum separation from Atlantic Corporation and Piedmont Center. Additionally, there would be no driveway access to Tarrant Road. The Type A planting rate is a high-density screen, intended to substantially block visual contact between adjacent uses and create spatial separation. A Type A planting yard reduces lighting and noise that would otherwise intrude upon the adjacent uses. Section 30-5-2.14 of the Development Ordinance establishes a number of development standards for asphalt plants, including a provision that any asphalt plant operation must be located at least 50 feet from any property line. Security fencing must be provided around the perimeter of the operation and there are provisions for sight rehabilitation and drainage control. It is a requirement that all unpaved storage areas must be maintained in a manner that prevents dust from adversely impacting adjacent properties. Access roads leading to and from the operation must be constructed with a gravel or asphalt stone surface and be maintained in a dust-free manner. Access roads must be located no closer than 15 feet to any property line. Finally, a plan must be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools or other uses negatively affected by truck traffic. Watershed regulations through the TRC process will require construction of a structural water quality device. Built-upon areas on the site would be limited to 70 percent. An inventory of hazardous materials and spill prevention plans must be submitted to Emergency Management. Based upon these facts and findings, the Planning Department recommends approval.

In response to a question from Ms. Wright, Mr. Morgan read again: Watershed regulations through the TRC process will require construction of a structural water quality device. Build-

upon area on the site will be limited to 70 percent. An inventory of hazardous materials and spill prevention plans must be submitted to the Emergency Management.

Ms. Wright said she would like to ask Mr. Beshears and Mr. Clayton a couple of questions.

Mr. Beshears and Mr. Clayton returned to the podium.

Ms. Wright said first she would like to ask Mr. Beshears a couple of technical questions. First about emissions; if he could talk to her very briefly about the emissions control? And then her question was also what was the height of the plant?

Mr. Beshears said the plant height was approximately 65 feet to the very top of the plant. In terms of emissions, from a hot mix asphalt plant you burn a fuel like you burn in your home furnace, No. 2 oil or a natural gas, and you dry the rock in a regular dryer and the gases then go through what they call a "bag house" or "bag filter" that basically collects all of the dust. That is one of the emissions that is controlled by the North Carolina Department of Environmental Protection. But beyond, particularly they also control gas use emissions from the plant. When he spoke earlier about the work they did through NAPA and with the SEPA, they looked at all the criteria pollutants, as well as hazardous pollutants that could be emitted from hot mix asphalt plants, and all of the data results and the EPA compilation of that data is included in your web site on what's called the AP42 guidance document. After they tested for each of those hazardous pollutants, that's when the EPA said we were not a major source and delisted them or took them off the list of being potential major sources. With respect to water pollution, as he mentioned before, asphalt basically is a solid at ambient temperatures. All these roads out here have asphalt on them; 95 percent of our roads are asphalt all over the City. If there were a water pollution problem with asphalt, you would think you'd have the problem all over your City with the asphalt because it solidifies. Basically at the asphalt plant, in terms of hazardous pollutants or hazardous chemicals, etc., it is no different than some of these other operations in the Piedmont Park. He was sure every one of these companies has hazardous chemicals in their operations, just as you have hazardous chemicals in your homes. It is a question of maintaining that and right now the North Carolina Department of Environmental Protection sets up the rules and controls how those have to be maintained as well as the spill prevention plan in case there is an accident.

Ms. Wright said her other question was about the covering of the trucks when they leave the asphalt plant once they receive their load of asphalt. Is it a legal requirement that they are tarped and how is that monitored?

Ms. Clayton said there was a legal requirement that the trucks be tarped and DMV monitors that. It is the law, not just for asphalt, but also for dirt, stone or whatever and anything leaving that quarry has to be covered with a tarp.

Ms. Wright said it was stated that you were going to have 3 employees working at that plant and a list of a lot of the people that are going to have other people employed are going to be expanding. Why did he think that his employment status - basically she was concerned

because as we go through this, it should be an issue of economics and right now, they stand at just 3 employees.



Mr. Clayton said that was correct. It takes 3 employees to operate the facility itself, the asphalt plant, but the asphalt operation has an impact on probably 25 or 30 people and it could be more. You look at all the truck drivers that go in and out of there, the people on the roadway that do the paving and those kinds of things. So there's an indirect impact versus what is just at the asphalt plant itself.

Mr. Haynes said it was said that 80 percent of the traffic coming into that plant would not be owned by the company. He knew they probably have to have a site plan. Is there any way you can keep that traffic from going back toward Piedmont Parkway?

Mr. Ruska responded that there was a requirement that they file a truck routing plan and that would be filed at the time they submit their detailed site plans for consideration by the City's Technical Review Committee. At that point, they would look at the truck routes that are proposed to operate the plant. He said that was about the most complete answer that he could give at this particular point.

Mr. Schneider moved that the ordinance granting a Special Use Permit for use of this property for an Asphalt Plant and accessory uses, including office uses be approved based on the following findings of fact: The use will not materially endanger the public health or safety if located where proposed because there are no health or safety concerns inherent in the proposed use of the property. That the use will meet the restriction(s) imposed by the applicant which require that the property be developed in accordance with the submitted sketch plan and that a 100-wide undisturbed buffer be provided along the entire frontage of Tarrant Road. The use will not substantially injure the value of adjoining or abutting property because a 100-foot wide undisturbed buffer supplemented, where necessary, with plantings at a Type A planting rate will be provided along the entire frontage of the property on Tarrant Road, thus screening the asphalt plant from Piedmont Center. The location and character of the use will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City and its environs because this area is predominantly zoned for heavy industrial uses and it is logical to have an asphalt plant in the area in light of the amount of building and highway construction that is currently underway and pending in the Triad. The motion was seconded by Mr. Gilmer.

Vice Chair Collins said he had a comment before they voted. This will probably be an item that goes beyond this Zoning Commission and will be heard by the City Council. He was really torn on this because when people stand up and tell you they're not going to bring jobs to an area because there is an asphalt plant, at the same time he owns an industry that is a construction-related business. These guys do a good job. He knew what they do and the quarry is going to be there a long time that they're going to be getting their supply from. So it's kind of a double edge sword. This is best scenario, if you are going to have an asphalt plant, but it also sets beside what has been a great corporate park. He really believed that there would have to be some further discussion between now and City Council time and he probably should not make that assumption that somebody will take this to Council, but he believed it would happen and he thought there needs to be a lot discussion that happens.

Mr. Haynes said the letter that Mayor of High Point, and he was really thinking about it, and she made the statement: "We are very concerned that Greensboro zoned this property in

1988 to Heavy Industrial after much of the development in Piedmont Center had taken place." Right now, he thought he needed further discussion on that before he voted.

Vice Chair Collins said back many years ago he was employed by a concrete plant within 100 yards of this site that they're trying to build on. Because of that rock quarry being there, there is pocket of area that it makes sense to have these types of facilities there. He was not sure how you could control certain factors. The smell and the traffic seem to be the two things that are coming up the most. He thought the site could be controlled with the visual part of it. Anyway, he was not sure what the answer was here today. He was probably taking the easy route out, but he believed this will go further and with the comments he had heard today, he would probably be voting against it even though he was not 100 percent against it just because he thought there needs to be further comment in the next 30-45 days as it heads on to City Council.

Mr. Gilmer said he thought this would make a great impact on the neighborhood, the business park out there. He knew High Point really did a good job on controlling everything. And also with the rock quarry being there, he did think it would be a nice fit. However, at this time he would have to vote against it.

Ms. Shipman said although she thought an asphalt plant is probably needed, she thought that the odds were that they needed to have more economic development in there and right now, she didn't see anything facing that issue, so she was going to have to oppose it as well.

There being no other discussion, the Commission voted 2-4-2, thereby denying the motion. (Ayes: Schneider, Wright. Nays: Collins, Shipman, Gilmer, Haynes. Abstain: Wolf, Byrd.)

Vice Chair Collins said there would be a 10-minute break.

Ms. Wright left the meeting at 3:35 p.m.

- B. AN ORDINANCE REZONING FROM LIGHT INDUSTRIAL TO CONDITIONAL DISTRICT – HIGHWAY BUSINESS WITH THE FOLLOWING CONDITIONS:**
- 1) USES: ALL USES PERMITTED IN THE HB ZONING DISTRICT EXCEPT THE FOLLOWING: SEXUALLY ORIENTED BUSINESSES, JUNKED MOTOR VEHICLES, AND LAND CLEARING AND INERT DEBRIS LANDFILLS.**
  - 2) MAXIMUM OF ONE CURB CUT FOR ACCESS TO THE SUBJECT PROPERTY FROM BATTLEGROUND AVENUE. - FOR A PORTION OF THE PROPERTY LOCATED ON THE NORTHEAST SIDE OF BATTLEGROUND AVENUE BETWEEN CARROLL STREET AND FLAM AVENUE – FOR MRF CORPORATION.**
- (CONTINUED FROM APRIL 12, 2004 MEETING) (CONTINUED)**

This matter was continued until the June meeting at the beginning of this meeting.

**NEW BUSINESS:**

**A. AN ORDINANCE REZONING FROM RS-12 RESIDENTIAL SINGLE FAMILY TO CONDITIONAL DISTRICT – GENERAL BUSINESS WITH THE FOLLOWING CONDITION: 1) USES LIMITED TO PARKING IN CONJUNCTION WITH THE ADJOINING PROPERTIES. - FOR A PORTION OF THE PROPERTY LOCATED ON THE EAST SIDE OF BELL ORCHARD DRIVE NORTH OF PISGAH CHURCH ROAD – FOR TILEX PARTNERS. (DENIED)**

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property.

In response to questions from Chairman Wolf, Mr. Ruska said this parking would be available to either McDonalds or the parking lot to the south. He said to use off-site parking, it has to be within 400 feet of the use that it serves. As to the rule for not having to rezone a parking lot, one of the parameters of that is that you have to access that parking lot through the use that it's serving. So in this instance, if they want to use Bell Orchard Drive as an access point, then they would have to get the rezoning. The other thing is that you cannot have parking in a residential zone closer than 150 feet to a street that doesn't allow that use, so again that would knock out them being able to use it under the current zoning.

Chairman Wolf asked if the applicant would come forward to speak.

Henry Isaacson, Esq., 101 West Friendly Avenue, handed up booklets to the Commission for its information. He stated he represented Tilex Partners, the owner of the subject property, and he was also here today on behalf of McDonalds and Jim Smith, who is the owner and operator of the McDonalds at the intersection of Pisgah Church Road and North Elm Street. He asked Mr. Smith to stand and be recognized. He said in Tab 1 of the handout, he would like to propose two new conditions to be added to this zoning application and following in sequence.

2. The existing wooden fence on the northern boundary line of the property shall be maintained.
3. All perimeter lighting of the parking area shall be directed toward the interior of the property.

Mr. Collins moved acceptance of the two new conditions for this application, seconded by Mr. Byrd. The Commission voted 7-0 in favor of the motion. (Ayes: Wolf, Collins, Shipman, Gilmer, Schneider, Byrd, Haynes. Nays: None.)

Attorney Isaacson said parenthetically those conditions were added as a result of the written staff report, which was made available to them on-line and he thought that went a long way towards showing the virtues of having those staff reports come out early because they were able to address those concerns with these two conditions.

He asked the Commissioners to turn to the photographs in the handout, which were taken last Friday morning. He then explained what each of the photographs was showing. He said that according to Mr. Smith the real problem comes at lunchtime. This has become a very popular McDonalds, there are very few other restaurants in the area and a number of people frequent this restaurant at lunchtime. Mr. Smith tells him that one of the problems is that a lot of

vehicles come in pulling trailers, landscape people and other people pulling trailers, and they take up more than one parking space and that has created quite a matter for congestion at this particular restaurant at that particular time. Therefore, there is a need for additional parking. He pointed out a property that he believed was once a nursing facility. It has been vacant and unoccupied for a number of years and is pretty well boarded up right now. It would also, under this conditional district zoning, have access to this parking facility, were the Commission to approve this request. Right now, it is principally for the use of McDonalds customers. They would have the ability to exit this parking lot on Bell Orchard and then 99 if not 100 percent of that traffic would flow onto Pisgah Church Road. Those of the Commissioners who might have been out there would notice that there is quite a bit of sight distance when you come out of Bell Orchard and you want to get onto Pisgah Church Road. That sight distance is much better than if you were coming out of the McDonalds driveway, so he did believe, as far as safety is concerned, that this would be a much safer exit for people than to come out of the McDonalds parking lot. There is an incline going westwardly on Pisgah Church Road and you don't have as much of that when you come out of Bell Orchard. He said Tab 3 contained an extract from the Generalized Future Land Use Map of the Connections 2025 Comprehensive Plan. There was a circle that includes this property, and they would notice there was a green star showing where the property is located. The circle indicates an activity center. The pink area where the property is located is designated on that map as mixed use-commercial. He said the definition of mixed use-commercial was quoted in the staff report. The first sentence reads: "This designation is intended to promote a mix of uses of which various commercial uses remain predominant where low residential, services and other uses are complimentary." Then the definition of activity center is also quoted in the staff report. The first sentence there reads: "Activity centers are existing or anticipated future concentrations of uses that may function as destinations or hubs of activity for the surrounding area." This property would be used exclusively for the parking area for McDonalds or the adjacent property. If the boarded up retirement home is ever developed or redeveloped, then they would have access also to this parking area.

Chairman Wolf asked if there was anyone present who wished to speak in opposition to this request.

Daisy ????, 4112 Bell Orchard Road, said she had a petition signed by every house except one on Bell Orchard Road and the one house is vacant. Someone has a letter from that person. Bell Orchard, Kenneth and Whitfield Roads are the three streets that are all tied in on that. There was not one person who was for it. She handed up the petition for the Commission's consideration. They have had no meetings or letters concerning this property from the owners for this change. McDonalds also has an exit out on Elm Street that they have not addressed at all. The nursing home has been vacant for over 9 years. Due to the configuration of the street and its size, this is a poorly planned idea, if it has been studied at all by the City. The street is not wide enough for two cars to pass one another. There are no sidewalks. On either side of the road there is a storm drain or a swell that makes it impossible to walk next to the road. This is an older neighborhood that was not designed or upgraded for today's fast, careless vehicles. The daycare center that opens into Bell Orchard has parents literally racing to and from to get their children. As it is part of their route, they don't look when they pull into Bell Orchard. She gave other conditions that will add more traffic to this area in

the future. The current community has already been adversely affected by the changes in the area and does not need additional through traffic. To add to the traffic difficulties, their

property values have gone down. When she purchased her home, it was appraised at \$119,000. When she recently refinanced it, it was appraised at \$93,000. Her neighbor had two more lots than she does and theirs was just appraised at \$97,000. She handed up to the Commission copies of her statement.

William G. Hutchison, 4011 Bell Orchard Drive, said his property was directly across the street and adjacent to where this proposed parking lot and egress from McDonalds will be in place. He submitted for the record a letter from another property owner, authorizing Mr. Hutchinson to speak on his behalf. The letter read: "Ladies and Gentleman of the Commission, my fellow citizens, neighbors and fellow property owners: After reading the Zoning staff report released last Thursday, May 6, my initial reaction was almost to laugh at the absurdity of the assertions made in the staff report. This emotion was soon replaced by disbelief and chagrin that anyone could propose rezoning this property to Conditional District-General Business. I was also angered by a failure of this Commission to honor a pledge made to myself and other property owners on an earlier occasion. I believe it may have been the occasion of the rezoning of the McDonalds parcels to allow its existence in September of 1992. That commercial rezoning would not move to Bell Orchard Drive. First off, let me say that McDonalds is not a good neighbor. Since McDonalds opened, our yards have been littered with trash bearing McDonalds' logo. In early spring, summer and fall, if the wind is from the east, the only thing you can smell in my front yard from just after dawn until midnight is the smell of frying food. I like hamburgers as much as anyone, but after smelling them all day long on a summer's day, the smell becomes obnoxious. In canvassing the neighborhood prior to this meeting, my neighbors told the tales of being able to hear the speaker at the drive thru within 75 feet of Kenneth Road. They spoke of having to pick up hamburger wrappers and other McDonalds packaging from their front and back yards. On one occasion, I was awakened by a loud thumping sound around 1 o'clock in the morning. Thinking that someone might be trying to break into my home, I left my bed only to see a car leaving the rear of McDonalds' parking lot through the window at the top of my stairway. The driver was probably picking up an employee who had finished cleaning up for the evening with a thumping from his audio system, had me believing that my home was being burglarized. When McDonalds was first built, we were promised that there would be a decorative fence and appropriate landscaping planted to shield the residential area from McDonalds. Today a major portion of that fence is gone. It mysteriously disappeared about a year ago. I guess it was done in anticipation of today's rezoning request. So much for the decorative fence protecting the residential neighborhood to the west.

I could go on about the negative impact to the neighborhood by McDonalds, but my time is limited. Let me speak to the basic premises and assumptions on which the zoning plan is based. In the transportation section, it lists the ADT to be 21,223. I would assume that the ADT represents average daily transits. It lists Pisgah Church Road as a minor thoroughfare. If 5 lanes is a minor thoroughfare, my question is what would be a major thoroughfare? It lists Bell Orchard Drive as a local street. At the point where the proposed egress from McDonalds would be, Bell Orchard Drive is approximately 17 feet 10 inches wide. The next street to the west, Baylor Street, for purposes of comparison is approximately 30 feet from curb to curb. Baylor Street is a local street. Bell Orchard Drive was built to be and still is a country lane, designed when the area was within the County zoning control and outside of the City limits.

With the additional traffic created by the daycare, the intersection at Bell Orchard and Pisgah Church has already become unacceptably dangerous. By moving the existing traffic from the

current exit in front of McDonalds, where GDOT says there have been 4 accidents in the last few years, to Bell Orchard Drive, we will be moving future accidents slightly westward. With the additional traffic attempting to exit Bell Orchard, we will have a chance to consolidate two traffic flows and set a new record for accidents in the area. The current entrance to McDonalds is approximately 33 feet 9 inches wide - this is the front entrance. Does it really make sense to move a volume of traffic that staff considers dangerous from a 33 feet wide area to one that generally measures less than 18 feet? We combine it with additional traffic?

I refer the Commission to the photograph labeled 'view from turn lane of Pisgah facing intersect with Bell Orchard Drive.' This photograph was taken from the turn lane in the middle of Pisgah Church Road facing east, with Baylor Street intersection to my rear. This is a view I see when I return home from work every evening and the general area that we just discussed in the previous case. This is the lane in which I must place my vehicle prior to turning into Bell Orchard Drive. The first thing I must look out for is oncoming traffic in the turn lane, trying to turn left onto Baylor Street. Most of the times these vehicles fail to signal their intent so one must be careful to avoid a head-on collision. To-date I have barely avoided numerous head-on collisions at this point when I return home. If I am left enough to gain occupancy to the turn lane, I proceed to the scene pictured in the photograph labeled 'view of intersection at Bell Orchard and Pisgah Church Road.' Several times a week at this juncture, I must avoid collision with a vehicle attempting to make a left-hand turn onto Pisgah Church Road and blocking the north bound lane into Bell Orchard. When this dangerous situation occurs, I'm at an impasse. Since I have the right-of-way, I should be able to turn into Bell Orchard, but the offending vehicle is blocking the northbound lane. Usually to break the impasse, the ascending vehicle makes a mad dash for the eastbound inner lane of Pisgah Church Road, using it in an unplanned and unsafe manner. Admittedly, the apron at this intersection is wider than the 7 feet 10 inches I listed for the width of Bell Orchard Drive earlier. But the apron wrapped in there is at the crest of a hill in the photograph. Once I decide to make my turn into Bell Orchard Drive, I must move rapidly to acquire a break in the oncoming traffic, then immediately brake my vehicle or to slow down to avoid vehicles, swinging wide over the free centerline as they exit Kids 'R Kids Daycare. See photographs labeled 'view of current exit from Kids 'R Kids Daycare, swinging wide and over centerline.'"

Mr. Hutchinson said the photos were taken this morning. He just took the first two cars that exited Kids 'R Kids. Both of them crossed the street centerline, both crossed the double yellow line.

"Kids 'R Kids has an enrollment of around 200 children. This equates to approximately 800 accesses per day, if one assumes that most cars contain one student. The 2 photographs I entitled "over the centerline and swinging wide" were taken early this morning. They illustrate that because Bell Orchard Drive is so narrow, parents have to swing out across the centerline into oncoming traffic on Bell Orchard Road when exiting the daycare.

"The staff report describes the applicant's lot as vacant. Today this is a true statement, but this is not the whole story. Before the applicant purchased the property, there was an existing residence that was torn down by the current property owner, I suppose, in preparation for this rezoning application. Another fact that the staff report fails to mention is there is already an

alternate egress behind the Eckerd Drug Store at the corner of Elm Street and Pisgah Church Road. If traffic safety is the main concern, wouldn't it be much better for all of McDonalds'

traffic to exit via this route, then turn right on Elm Street? Then use the existing traffic controls to assist them safely on their way. See photograph labeled 'view east side of Eckerd's showing current access and egress from McDonalds.'

"Now let me address the passage of the staff report that says: 'However, staff also feels that additional parking is needed in this area, not only for the McDonalds, but also for the future use of the currently vacant building at the northeast corner of Pisgah Church Road and Bell Orchard Drive.' Let me be candid about this. There is no way any parking lot on Bell Orchard Drive will facilitate the sale of the property at 512 Pisgah Church Road. If you look at the numerous photos of the building I supplied the Commission, any reasonable person will deduce that the property in the current state is not marketable. If you look at the photographs in the folder vacant, you will see that the owners of this property have done nothing to enhance the existing building. In point of fact, he has done much to devalue the property. So let's be candid. This isn't about helping the owner sell the property in its current state. This is about surrounding his property with commercially zoned property so that in a few months or years, he can come before this Commission and say with a straight face: 'My property is surrounded by commercial property on both sides. I would like mine zoned commercial also.' In order to be consistent, you will have no other choice but to grant his request. I would like to point out that this flies in the face of the Commission's staff's statement to the effect: 'Ensuring that buildings are of appropriate scale and intensity is critical as is ensuring that sites are designed and coordinated, as opposed to a lot by lot manner.'(emphasis mine) In preparing for this meeting, I was told by a neighbor that the property owner stated to him that he would at some point receive over \$2 million for the sale of this property.

"Finally, the staff report states: 'In order to protect the existing neighborhoods to the north and establish a line demarcating commercial zoning from residential zoning, staff recommended providing sufficient buffer, be a heavier landscaping and/or decorative fence to screen parking lot from adjacent residential property to the north.' Also some consideration should be to the height, angle, shielding and intensity of the parking lot lighting so as to not negatively affect the adjacent residential properties."

Mr. Hutchinson said he was one of the adjacent residential properties.

"Such screening and light divisions would go a long way towards meeting the objective of Policy 6A-4 mentioned above. This assertion would be laughable if it was not so dishonest on the face of it. Let's see, we're going to protect the neighborhood with shrubbery and fences, but never mind that we're going to dump a ton of vehicular traffic into a residential neighborhood. The congestion, more speeders and more problems will be what we will get on Bell Orchard Drive. The portions about appropriate lighting and especially currently in the winter months under the right conditions, when the foliage is gone from the trees around my house, it is almost bright enough to read a newspaper. Once you have opened up a driveway for the existing McDonalds' traffic, my home will be assaulted with noise from car audio systems and the windows on the front of my house will be illuminated by the headlights of turning vehicles from dusk until McDonalds closes. Also once the delivery drivers of the 18 wheel trucks realize this access point is available to them, we will have tractor trailer traffic on Bell Orchard Drive, a street barely wide enough for 2 cars to pass on. In light of the above

facts, the Commission's staff comment is of the landscaping and/or decorative fencing amounts to urgently rearranging of the deck chairs on the Titanic to avert an oncoming

disaster.

I draw the Commission's attention to the numerous photographs that I brought in a folder labeled 'miscellaneous' of the neighborhood containing utility lines to service the commercial node. How does Commission staff propose to hide these eyesores? A few years ago, I happened to be working at home and I noticed two men standing in front of my house. Being curious as to what they were doing, I asked the two what they were doing. One of the men introduced himself to me as Jerome Pearson and the other said he was a Duke Power engineer. Mr. Pearson asked me if I would allow a utility pole to be installed in the middle of my front yard so that an over-strained pole in the area of the proposed parking lot could be supported via a guy wire by the new post and pole to ground guy wire in the middle of my front yard. I told him that I thought I would be incredibly stupid to allow them to ruin my front yard in such manner. At this point, they both made statements that if they wanted, they could put the pole in my yard under eminent domain and there was nothing I could do to prevent it. So a question I have for the Commission is if the proposed zoning goes through, will the pole in question be moved and my yard ruined by the necessary utility pole. See photograph labeled '4011 Bell Orchard Drive.'"

Chairman Wolf reminded Mr. Hutchinson that there were other speakers from the neighborhood.

"In conclusion I want to make the following points: If allowed to pass, it will break a promise made to many of my neighbors by the Greensboro Zoning Commission several years ago that commercial property would not be allowed on Bell Orchard Drive. You will increase traffic on Bell Orchard Drive. It will open the door for additional businesses to cite this precedent for their own rezoning to allow traffic when their parking lot spills onto Bell Orchard Drive. Along with the increased traffic, there will be increased noise well into early hours of the morning. Traffic congestion at the corner of Bell Orchard and Pisgah Church Road will become unbearable and dangerous than it already is. The congestion in the morning and evenings caused by parents delivering and picking up their children at the daycare center adjacent to the intersection has already become a major traffic hazard. It will cause use of a narrow, congested country lane by large tractor trucks, etc. There will be a phenomenal increase in litter thrown from windows of vehicles leaving McDonalds, Eckerd's, etc. There is a distinct possibility that crime will increase due to the increased traffic. It will open the door for more commercial rezoning in our residential area. It will cause a decrease in the value of the property located at 4011 Bell Orchard Drive owned by my wife and myself. Thank you. I appreciate your consideration for rejection of this proposal."

Tommy Lily 605 Whitfield Drive, said he was the only person who lived on Whitfield Drive. He has a club cab truck and it takes every bit of the road just for him to get out of Whitfield Drive onto Kenneth Road. He measured it and he has 17 feet 11-3/4 inches out of it. On Thursdays, everybody puts their garbage out. You have got nowhere to put it except in the road. Last year, he didn't know you had to have a petition to have a speed limit sign put up, so he got a petition and had a speed limit sign put up for 25 miles per hour, but that was just a waste of time and money because it might as well have been 65 miles an hour because nobody respects their 25 mile an hour zone. People are afraid to let their kids even play in their yards.

They have to drive the garbage trucks all the way down to his house. The garbage truck comes down, picks it up and they have to back out onto Kenneth Road, which is a hazard to



them too. He thought McDonalds did not need this parking lot. They could make parking spaces down there that say "trucks only." That's all you have to do. This is just another example of greed.

Frank Fontana, 4214 Bell Orchard, said he also owned the property at 4212 Bell Orchard. Increasing traffic coming down Bell Orchard Road, which is the only way these tractor-trailers coming out of McDonalds will have a choice to turn, would be very detrimental to the neighborhood.

Joseph Roberts, 4213 Bell Orchard Drive, said it was said earlier here that they believe that the traffic coming off the McDonalds would go to Pisgah Church. As we discovered with the Kids 'R Kids Daycare center being there, that a lot of the people who drop the kids off and pick them up, come down our road and come down Kenneth Drive. They use that as a cut through, plus the residents of the buildings that are behind Kenneth Drive over on Elm Street, a lot of people who work there come down that road. Now we're going to add another way for people and the business of McDonalds coming onto our road here, just more traffic will come down. We have kids, we have animals. He and his wife have a child on the way and they don't need any more traffic coming down their road as it is. It is not wide enough.

Dr. ?????, 4215 Bell Orchard Drive, said she got this information very late and couldn't do her investigation. So early today, she did see one investigation that the first speaker was mentioning. She visited the site at 10 o'clock, 11:30 and 12:30. She said at 10 o'clock, there were about 15 parking places available. At 11:30, she found only 12. At 12:30 or 12:20 almost everything was busy, except 1 space that was next to the entrance from Elm Street. This supports our suggestion to better improve this entry instead of making three entries. It has already two. She thought that allowing McDonalds to have another entrance, they should improve what they have instead of just devouring the property and affecting the value of other property in the neighborhood. It is not fair to bring our lifestyle down.

She gave examples of some calculations she had made in regards to McDonalds. Patrons of McDonalds throw their trash out their windows and the neighbors have to pick it up out of their yards. She had one question for the applicant. Why wasn't this information distributed earlier so that people like her who are more concerned by numbers could have time available to do some more substantial research? Whenever something like this is going on, the residents should be informed earlier so they could do some investigation before the hearing. The purpose of daycare is a good thing. It's good when you have in your neighborhood a daycare. It's something that everyone wants; right? But there is a problem with this that they have to compete with daycare people when they take exit from Bell Orchard to Pisgah, it's a problem. She appreciated this opportunity to speak out her frustrations about this.

Mark ?????, said the gentleman who presented the case mentioned that McDonalds needs more parking. This lot would exit on Bell Orchard Drive. The daycare traffic also drives to Bell Orchard Drive, which is full of children. All day long, we are in that situation when we have to watch our children. Every few minutes a trailer would come maybe. It is a safety problem and safety for children. Littering and pollution definitely that is next problem.

Chairman Wolf asked if the applicant would like 5 minutes for rebuttal.

Attorney Isaacson returned to the podium and said he would like to clear up a couple of things. The house that was on this particular piece of property was taken down because it was rat infested and he could assure the Commission that the owners would not have done so if it could have been avoided since it was a rental house. This parking lot, and that is exactly what it is, it is not a business, and it is a parking lot. It will be paved and it will have parking spaces. Whatever noise or whatever odors or smells or anything that the gentleman was complaining about are not going to be intensified nor will it be eliminated by virtue of this parking lot. This is an auxiliary parking lot, an over-flow parking lot for the customers of McDonalds. If you will look at the map, you will see that this particular piece of property is just behind the building fronting on Pisgah Church Road and as far as traffic, he believed that the traffic coming out of this parking lot is going to go out on Pisgah Church Road. Now if there are parents picking up children at the daycare center and they are going down Bell Orchard Road and going back to the Lake Jeanette area or some other area, by eliminating this parking lot he didn't think it would stop those parents from driving where they want to drive. If you will read the staff report, he thought you would see that when the shopping center is developed across the street, a median will be put onto Pisgah Church Road and McDonalds driveway on Pisgah Church Road will be a right in, right out. He didn't have the photograph that the gentleman presented, but he did think it illustrated his point that sight distance was much better coming out of Bell Orchard than it is out of McDonalds driveway. He would like for the GDOT staff to comment about that and also about the quality of Bell Orchard Road. Bell Orchard is a 2-lane road and he did not think of it as a country lane. When children are playing in Bell Orchard Road, he did not know whether that was good or bad, but he didn't think this parking lot was going to produce a lot of traffic going north on Bell Orchard Road. He thought most of the people would exit from this parking area, go out Bell Orchard onto Pisgah Church Road. As far as the marketability of the vacant property, that is at the corner of Bell Orchard and Pisgah Church Road and it has been on the market for sale for some time. Again, this is a parking lot. It is not intended to be a business and it is not intended to produce anything except parking places for McDonalds' customers and he didn't think McDonalds would be interested in the parking lot unless it was necessary for their business.

Chairman Wolf asked Carrie Reeves of GDOT if there was intended to be a center median along the entire front of McDonalds when that shopping center is built?

Ms. Reeves said that was correct. The median will stop about Bell Orchard Drive.

Mr. Byrd asked about the driveway that goes onto North Elm behind Eckerd since he just didn't notice this when he visited the site. Is that a full-cut out onto North Elm?

Attorney Isaacson said it was an exit only onto Elm Street, not an entrance. It doesn't have anything to do with parking. It is access to North Elm Street.

Mr. Ruska said that was a full access where you can make either a left or a right going out of that driveway onto Elm Street.

Chairman Wolf asked Mr. Isaacson what would his client's position be if all anyone would agree to is a parking lot with no access onto Bell Orchard?

Attorney Isaacson said he thought that that would probably just add more congestion to the McDonalds parking lot. He thought the access on Bell Orchard is not only for convenience, but

it is also a safety factor.

Mr. Haynes said the right in and right out that he was referring to was Bell Orchard?

Attorney Isaacson said no, sir. When the median is put in front of the McDonalds on Pisgah Church Road, that driveway out of McDonalds will then just be right in, right out. In other words, if you are going west on Pisgah Church Road, you can turn into McDonalds, but when you come out of that driveway, the only way you can go is right, westwardly again onto Pisgah Church and westwardly on Pisgah Church Road. No one can turn into McDonalds who is east bound on Pisgah Church Road.

Attorney Isaacson said one again he would just defer any traffic matters to the staff.

Mr. Byrd asked if there were any barriers or something like you have in the drive-thru that would prevent commercial trucks from accessing this parking area? Is anything along those lines planned?

Attorney Isaacson said they would welcome any suggestions that the City staff has. The gentlemen mentioned trailers. These are not tractor-trailers that would use this parking lot. These are the trailers he tried to describe like a U-haul almost. A lot of landscaping people come in with a small trailer where they carry a lawn mower and some other equipment for lawn work. That is the kind of trailer that Mr. Smith described that's taking up multiple parking spaces.

Chairman Wolf said there now would be 5 minutes for rebuttal by the opponents.

Daisy ???? returned to the podium and said she heard him saying that the people will turn left and go onto Pisgah Church. She did not believe there had been any traffic study done to see how many of those people head in the Lake Jeanette direction versus towards the other street or towards Pisgah Church towards Lowe's. She thought probably the owner of McDonalds knows how many people he serves in a day and she thought it would be creating a nightmare with having that daycare center and McDonalds, then mom can run across the street and torture us. There has been no traffic study done to look at which direction this traffic is going and she didn't think that was fair to their community. In addition to the landscapers, there are also semis that park in the back behind Eckerd and walk up there and there are some rigs that park in the little area behind this property. If the house was rat infested, it was a recent issue because there were people living there before. She thought there were a lot of things in the community that they had been very blatantly lied to. In addition, they had not contacted the community at all as that other group tried to work with their community. She thought their petition clearly tells the Commission how they feel. This is a community, it is not a drive-thru.

William Hutchinson returned to the podium and said with all due respect to the Honorable Counsel on the opposing side, they are not discussing trailers pulling lawn tractors. He had witnessed numerous McDonalds' delivery trucks there. They are 18-wheeler tractor-trailers pulling 40 foot trailers. That is how McDonalds delivers their foodstuffs to their locations. He had seen them in the McDonalds' lot many, many times. There will be no control of the traffic

leaving here and all that traffic will be pouring light and noise into his property that is only 14 feet away from where it is going to exit. This will not be just a parking lot; it will be another

entrance and exit to McDonalds.

Another opponent said once again in reference to the exiting of the McDonalds over here, that they do believe that traffic will go onto Pisgah Church already before the dividers being built that are going to be built between when the shopping center is opened starts right in, right out. It is hard enough to turn left as it is. People who patronize McDonalds will realize this and they will come down Bell Orchard Road and make a right onto Kenneth to make a right onto Elm Street in order to access either Elm Street or going left down Pisgah Church, because that would be a much easier way than combating the traffic to try to make a left hand turn from Bell Orchard onto Pisgah Church.

Another opponent said he would like to talk about the Elm Street access. Before Eckerd's was built, they used to drive to McDonalds through Elm Street. That is a very good entrance. It is 2-way. They used to drive to Bell Orchard through to McDonalds then to Pisgah Church and further. There is no problem if the traffic goes back to Elm Street. However, going any other way interferes with the traffic coming to and leaving the daycare, which causes further congestion.

Another opponent said one problem that had not been addressed was the actual parking lot itself is 1/3 acre. Where is that water going to run off to? Is that going to be running down his street with all that trash or will it be going in the cesspool behind the existing McDonalds now?

Chairman Wolf said the hearing was now closed.

Mr. Morgan said original zoning to a commercial classification for McDonalds parcel and 4 other parcels, including the drug store and the bank at the northwest and northeast corners of Pisgah Church Road and North Elm Street, respectively, was established by City Council in 1992. In September of 1992, the Zoning Commission rezoned McDonalds' parcel to its present zoning of Conditional District-General Business. The concern of the staff is allowing a commercial driveway on a residential street. However, staff also feels that additional parking is needed in the area, not only for McDonalds, but also for the future use of the current vacant building at the northeast corner of Pisgah Church Road and Bell Orchard Drive. The applicant has added conditions to protect the existing neighborhood to the north and established a line of demarcation for commercial zoning from residential zoning. Furthermore, if approved, staff strongly recommends that the additional commercial uses should not be allowed to extend any further north on Bell Orchard Drive. The Planning Department recommends approval.

Chairman Wolf asked if GDOT, in looking at the plans for the future shopping center, the center median and things like that, got into the evaluation of how the McDonalds and similar facilities along there are going to access their delivery trucks? How are those trucks going to get in and how they are going to get out?

Ms. Reeves said GDOT had not specifically looked at that, but each driveway is built to City standards to allow their truck traffic to enter and exit the site as safely as possible. That is done at the site plan stage. So when McDonalds came and redeveloped their site or Eckerd's developed their site, they looked at those issues at that time. Now they will probably come up

Elm Street and maybe make a right into the McDonalds, go out the back and maybe make a right onto Elm Street and head back south. She didn't know where their delivery trucks are

coming to and from so she is just speculating, but their driveways are built to City standards to accommodate truck traffic. The same would be true for the driveway coming off of Bell Orchard.

Mr. Haynes said that he could not support this request unless you discontinue the entrance and exit onto Bell Orchard and he will vote against it.

Mr. Schneider said his thought was the same thing. What we would be doing is finding another entrance to beat the curve.

Ms. Shipman said actually she thought there should be a little more study on how McDonalds planned to do this in coherence with the neighborhood because eventually a parking lot is going to be needed with all that traffic going in and out with the new shopping center and everything coming up. So maybe McDonalds and the neighborhood could get together and look at this and replan it or something.

Chairman Wolf said he was totally in opposition to this, although he honestly did believe that the nursing care facility would ultimately be some kind of business or light office. He differentiated between what could possibly go there versus drive-thru and he could see GB being where that nursing facility is and it using parking behind it, but there are many less intensive GB uses that can be along that street. For one example, what they did down the street not long ago, the relocation of the veterinary clinic. You put that kind of use there, that's not that big a killer to the neighborhood, but allowing the McDonalds to expand its drive-thru use out onto that street, it makes absolutely no sense to him whatsoever nor does the parking lot for that use, the more he thinks about it. A lot of other uses you could put there, the parking lot would not have the kind of turnover that a fast food facility has and he deals with rezonings for his clients and he knows there are a lot of areas around town, that's the threshold question about certain properties. Is it a drive-thru? Does it have the capability of the drive-thru and the turnover you get on those kinds of facilities? He could not see putting that kind of light by traffic of cars, trucks or anything back there for a parking lot for a drive-thru restaurant, so he was absolutely opposed to this request.

It was pointed out that Ms. Wright left at the break. Therefore, Mr. Schneider moved to excuse Ms. Wright at the time of the break, seconded by Mr. Gilmer. The Commission voted 7-0 in favor of the motion. (Ayes: Wolf, Collins, Shipman, Gilmer, Schneider, Byrd, Haynes. Nays: None.)

Mr. Schneider moved Item B, an ordinance rezoning from RS-12 Residential Single Family to Conditional District-General Business, subject to the conditions set forth in the application, seconded by Mr. Gilmer. The Commission voted 0-7 in favor of the motion, thereby denying the request. (Ayes: None. Nays: Wolf, Collins, Shipman, Gilmer, Schneider, Byrd, Haynes.)

**B. AN ORDINANCE ESTABLISHING ORIGINAL ZONING FROM COUNTY ZONING LIMITED BUSINESS AND RS-40 RESIDENTIAL SINGLE FAMILY TO CITY ZONING**

**CONDITIONAL DISTRICT – RM-8 RESIDENTIAL MULTIFAMILY WITH THE FOLLOWING CONDITIONS: 1) ALL USES PERMITTED UNDER RM-8. 3) GROSS DENSITY SHALL NOT EXCEED 5 UNITS PER ACRE. - FOR A PORTION OF THE PROPERTY LOCATED ON THE EAST SIDE OF WATLINGTON ROAD NORTH OF LEES CHAPEL ROAD –FOR WILLIAM C. RAY AND DAVID RAY.**  
**(FAVORABLE RECOMMENDATION)**

Mr. Ruska presented a map showing the subject property, as well as the surrounding properties. He also presented slides of the subject property and surrounding properties.

Chairman Wolf asked the applicant come forward to the podium to speak.

Chris Craig, Esq., said his law firm of Hunter, Higgins is located 101 West Friendly Avenue. He said he represented David and William Ray who recently purchased this land located at the corner of Lees Chapel and Watlington. As you may remember, they came before this Commission on February 9th of this year to rezone the first portion. The subject property is located on the eastern side of Watlington Road. They had a favorable vote from the Commission on their prior rezoning of the front lot. He had on the board a drawing of the property, looking at it from the north. His clients are constructing 7 single family homes that's about to begin on the front of Lee's Chapel Road. This original zoning request follows a successful annexation of the back lot and they request the zoning to CD-RM-8 to comport with the front lot, with conditions that gross density shall not exceed 5 units per acre. He gave some history of the property. The project is planned for 3 stages. The first one is that first section along Lee's Chapel Road, which is about to begin 7 single family homes. Indicating on the drawing of the property, he said there would be 7 single family homes up this way and then there are 14 townhomes in this area through here in the center. There is a significant amount of green space that his clients have included in this property, including the buffer back here and then this whole area along in here is essentially all green space, including a lake back here and it will probably be part of the common property. This property is in the Tier 4 Watershed area, of which the Rays have been aware. They worked closely with the City water services, i.e., all plumbing shall be tapped to City lines from the corner of Lee's Chapel and Watlington; all sewage will be drained that way as well; the plan includes grading to enable this. The storm water retention pond that is soon to be under construction will be built for 3.2 acres of disturbed area and that is shown there. In addition, the plan comports with the Greensboro Comprehensive Plan and today they are respectfully requesting that the Commission approve the request.

Chairman Wolf asked if there was anyone present who wished to speak in opposition to this request, and no one came forward.

Mr. Morgan stated the frontage of this property along Lee's Chapel Road currently in the City limits was rezoned from RS-12 and LB to CD-RM-8 by the Zoning Commission on February 9, 2004. It is subject to the same conditions as proposed in the original zoning application. The Planning Board unanimously recommended the annexation of this parcel at the April 20, 2004 meeting. As staff pointed out, the Generalized Future Land Use Map shows this area to be classified as low residential. As conditioned, the proposed original zoning is compatible with

Connections 2025 and is consistent with the Comprehensive Plan objectives to promote

compact urban development and to provide affordable housing opportunities. The Planning Department recommends approval.

Mr. Gilmer moved Item B, an ordinance establishing original zoning from County Zoning Limited Business And RS-40 Residential Single Family to City Zoning Conditional District - RM-8 Residential Multifamily, subject to conditions set forth in the application, seconded by Mr. Collins. The Commission voted 7-0 in favor of the motion. (Ayes: Wolf, Collins, Shipman, Gilmer, Schneider, Byrd Haynes. Nays: None.)

**C. AN ORDINANCE REZONING FROM RS-7 RESIDENTIAL SINGLE FAMILY TO CONDITIONAL DISTRICT – LIMITED OFFICE WITH THE FOLLOWING CONDITION: 1) USES: RESIDENTIAL USES; EDUCATIONAL OR INSTITUTIONAL USES TO INCLUDE CHILD CARE (16 OR MORE); AND BUSINESS, PROFESSIONAL AND PERSONAL SERVICES USES. - FOR A PORTION OF THE PROPERTY LOCATED ON THE SOUTH SIDE OF CAMBORNE STREET BETWEEN BRANDT STREET AND SOUTH HOLDEN ROAD – FOR JACKIE CASTERLOW. (APPROVED)**

Mr. Ruska presented a map showing the subject property, as well as adjacent properties. He also presented slides of the subject property and adjacent properties.

Chairman Wolf asked if the applicant would come forward to the podium to speak.

Jackie Casterlow said she was also the owner of the childcare facility that could be seen there. They purchased this vacant lot because there were two residential homes that were being rented as 4 rental properties. These properties were in violation of the Greensboro Housing Code and they were in very bad condition; in fact, they were over 50 years old, cinder block-type. They were adversely affecting her business. They demolished those homes located there and what you see is what they did to make the area, in fact, a much better place. Currently, they are not anticipating any development of this land. They are just doing this for purposes of making sure that, in the future when they do decide, it has already been rezoned. Their current childcare facility that is located behind this lot has tremendously improved the beautification of the existing neighborhood. They are sure any future development will compliment existing homes in this neighborhood.

Chairman Wolf asked if there was anyone present who wished to speak in opposition to this request and no one came forward.

Mr. Morgan said the property containing the existing daycare center was rezoned to CU-LO by the Zoning Commission in July 2000. The use of that property was limited to a daycare center and accessory uses and contained a provision that the building was to resemble a residential structure with a pitched roof and stucco or brick exterior. Staff recommended approval of the existing daycare center rezoning. Staff pointed out at that time the property was bordered on one side by a major thoroughfare and by Light Industrial zoning and a church to the north. Staff felt that this was a good site for a daycare center that could serve the surrounding neighborhoods with a convenient location that had good access. Staff pointed

out the property could serve as a transition area between the industrial and service-type uses

to the north and residential zone area to the south. These comments apply to this current application as well. In this case, the area proposed for rezoning is surrounded by CD-LO zoning on the south, west and east sides of the property. This request is consistent with the description of the LO district in that it is intended for office and service type developments on small sites in residential areas. Staff feels this request is consistent with the objective of the reinvestment corridor, which this parcel borders, since this area would benefit from private investments to provide economic viability and strengthen the adjacent neighborhoods. The Planning Department recommends approval.

Mr. Gilmer moved Item C, an ordinance rezoning from RS-7 Residential Single Family to Conditional District - Limited Office, subject to the condition set forth in the application, seconded by Ms. Shipman. The Commission voted 7-0 in favor of the motion. (Ayes: Wolf, Collins, Shipman, Gilmer, Schneider, Byrd, Haynes. Nays: None.)

**D. AN ORDINANCE GRANTING A SPECIAL USE PERMIT FOR A BED & BREAKFAST WITH THE FOLLOWING CONDITION: 1) A MAXIMUM OF FOUR GUEST BEDROOMS. - FOR A PORTION OF THE PROPERTY LOCATED ON THE SOUTH SIDE OF TWIN LAKES DRIVE (PRIVATE) BETWEEN PINECROFT ROAD AND YOW ROAD -FOR RICHARD BOETTE AND ANITA POPE GILL. (APPROVED)**

Mr. Ruska stated that this request is to obtain a Special Use Permit for a Bed & Breakfast. The property is zoned RS-12 Residential Single Family and this zoning classification permits Tourist Homes (Bed & Breakfast) with approval of a Special Use Permit. The one condition proposed is "A maximum of four guest bedrooms".

Chairman Wolf asked if the applicant would come to the podium and speak.

Anita Gill, 2700 Twin Lakes Drive, was sworn in. She said she was asking for a Special Use Permit to do a Bed & Breakfast at the location of 2700 Twin Lakes Drive. She was a previous inn owner at the coast for 11 years so this is not a new business for her. The hurricanes blew them this way. They would like to slow down and have a smaller facility and still a very nice lodging facility in the City of Greensboro. They are proposing at most four rental units on this property. Their policy with their previous inn and for this inn also is to keep a very private, quiet business here, previous reservations only, no walk-in traffic. It will be adults only and only two adults per rental unit or suite. That it would not be any more than the 6 to 8 people if there were 4 rental units. They will live on premise and will only serve breakfast to their in-house guests. She thought the assets of the property were that it is a 4.15 acre property. It is very secluded and private, sitting on a small lake. It is buffered by a large amount of mature trees and plantings. The Antoine area behind us is totally private, especially in summer, with the buffer. The only visible houses in this area are the four houses that are across the lake from them. They are one of the 5 people in that Homeowners' Association surrounding the lake and they do have a petition that was signed by the other 4 homeowners in the Homeowners' Association, saying that they were very much in favor of them doing a Bed & Breakfast. She felt the B&B would be an asset to the City of Greensboro and will be a compliment to the community and they do request the Special Use Permit.



Maria Bodie, 2712 Twin Lakes Drive, was sworn in and said her home is across from Ms. Gill's unit. She said she was the secretary of the Willow Lakes Association, which is the homeowners' association on the lake. They own the land and not the water. They are in accord with what Ms. Gill would like to do. They feel that her past experience with a Bed & Breakfast has been excellent and they think she would stick to what she said she was going to do. She said she had a notarized list of names, which she passed up to the Commission.

Chairman Wolf asked if there was anyone present who wished to speak in opposition to this request and no one came forward.

Mr. Morgan said tourist homes are permitted in single family zoning districts with a Special Use Permit and are subject to the following development standards: No tourist home shall be located within 400 feet of a rooming house, a boarding house or another tourist home. The maximum number of guest bedrooms is 6, but the applicant has proposed 4. Tourist homes must be operated by a resident manager. It must be located in a structure that was originally constructed as a dwelling. It must contain only 1 kitchen and meals served on premises must be only for overnight guests in the residence or the facility. The use of the facility by any one patron is limited to no more than 15 days per 60 day period. Given the lake setting, the private street access, the low density, large lot pattern around Willow Lake and the secluded nature of this location, staff feels that this is an ideal location for a small Bed & Breakfast. The property contains over 4 acres and the existing building is well set back from the interior property line. That leaves a substantial buffer between the Bed & Breakfast and the adjacent properties on Twin Lakes Drive, Yow Road, and Antoine Drive.

The Planning Department recommends approval of this Special Use Permit.

Mr. Byrd moved that the ordinance granting a Special Use Permit for use of this property for a Bed & Breakfast be approved based on the following findings of fact: The use will not materially endanger the public health or safety if located where proposed because there are no health or safety problems inherent in the operation of a Bed & Breakfast. That the use will meet the restriction imposed by the applicant that limits the Bed & Breakfast to a maximum of four guest bedrooms. The use will not substantially injure the value of adjoining or abutting property because the existing building is substantially set back from the property lines which creates adequate buffers between it and the nearest single family detached dwellings. The location and character of the use will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City and its environs because the lake setting, the private street access, the low density, large lot pattern around Willow Lake, and the secluded nature of this location make this an ideal location for a small Bed & Breakfast. The motion was seconded by Mr. Gilmer. The Commission voted 7-0 in favor of the motion. (Ayes: Wolf, Collins, Shipman, Gilmer, Schneider, Byrd, Haynes. Nays: None.)

**E. AN ORDINANCE ESTABLISHING ORIGINAL ZONING FROM COUNTY ZONING RS-40 RESIDENTIAL SINGLE FAMILY TO CITY ZONING CONDITIONAL DISTRICT - RM-5 RESIDENTIAL MULTIFAMILY WITH THE FOLLOWING CONDITIONS: USES: USES LIMITED TO TOWNHOMES FOR SALE AND RELATED USES (E.G. AMENITIES). 2) MAXIMUM OF 20 TOWNHOMES. 3) MAXIMUM OF TWO TOWNHOME UNITS PER BUILDING. 4) EACH TOWNHOME WILL HAVE AN ATTACHED GARAGE. 5) EACH TOWNHOME WILL BE CONSTRUCTED OF**

**PRIMARY BUILDING MATERIALS CONSISTING OF BRICK, STONE AND WOOD.  
- FOR A PORTION OF THE PROPERTY LOCATED ON THE EAST SIDE OF  
GUILFORD COLLEGE ROAD BETWEEN PLEASANT HILL DRIVE AND  
JAMESFORD DRIVE – FOR COALHOUSE RULED, INC. (FAVORABLE  
RECOMMENDATION)**

Mr. Ruska presented a map showing the subject property, as well as the surrounding properties. He also presented slides of the subject property and surrounding properties.

Chairman Wolf asked if the applicant would come forward to the podium to speak.

Marc Isaacson, Esq., 101 West Friendly Avenue, handed up materials to the Commissioners for their consideration. He said he was here on behalf of two parties. The owner of the property is a corporation Coalhouse Ruled, Inc. and the contract/purchaser is Mid-Atlantic Townhomes, which has been before you on a few other occasions for townhome developments. The purpose of this original zoning application is to allow the development of this approximately 5.5 acre property for one story townhomes for sale. At this density, this would amount to a little over 3.5 units per acre. The Generalized Future Land Use Map of the Comp Plan calls for low density residential at 3 to 5 units per acre in this area. So he would submit that this density would be in keeping with the Comprehensive Plan. By comparison, if the property were developed as single family detached homes, this would amount to essentially an RS-15 zoning district, that is single family lots with 15,000 square feet. The standard zoning for single family detached homes in the City is probably RS-12, so this amounts to a little lower density than the standard density that you would find on a typical single family detached development. He would submit that this Commission has had this discussion on several occasions that these are attached single family homes and he guessed there was a fine line between this and what you might consider multifamily, although the City zoning categories consider it multifamily.

In the handout, for illustrative purposes only, he had placed a site plan of the property as it might be developed or would be developed if this original zoning were approved. There would be 18 attached single family homes. He particularly called the Commission's attention to the shaded area at the frontage along Guilford College Road. Guilford College Road is in the process of being widened. There is some significant widening going on in that area of Guilford College Road. In fact, it will include a median along this area. So this illustrative site plan already contemplates that widening and it reflects that by the shaded in area on the frontage of Guilford College Road. There were two pages with the shaded area that would show the Commission specific area that is being widened along Guilford College Road and he wanted to include for the Commission the NCDOT maps to show you that that is actually happening and the extent to which that widening is happening plus the median that is shown there on the official NCDOT maps. This will essentially restrict the access to this property to a right in, right out driveway and there would be one driveway, according to the site plan, for this development.

He included in the handout images of what the village would look like, again for illustrative purposes, but he thought it gave the Commissioners a good idea of the type of home that Mid-Atlantic is building in our community. It is designed to appeal to an older population. This type of dwelling place has become very popular in our community for a number of reasons.

There were several conditions in the application that would assure the Commissioners and adjoining property owners that this will be a quality development. The townhomes would be restricted for sale only. The materials for construction would be brick, stone and wood primarily. Each townhome will have an attached garage. He said they assured the Commission and the nearby property owners just what kind of quality this development will have by including these types of conditions. He presented 3 letters of support, the first 2 being at 1613 and 1615 Guilford College Road are at the south boundary line of this property and is adjoining property. Then the letter at 500 Hasselwood is immediately to the east of the property. So these are 3 letters from adjoining property owners who are in favor of this application. He said this original zoning meets the expectations of the Comp Plan. It will provide a compatible and efficient use of this property. It is a type of single family home that has become very popular in this area, especially in this Guilford College Road area with the widening that's occurring. The widening of Guilford College Road and the restricted access all sort of meet at this property to make an attached single family home development an appropriate use.

Chairman Wolf asked if there was anyone present who wished to speak in opposition to this request.

John Rishel, 1604 Guilford College Road, said his residence was directly across the street from the planned rezoning area. He said he had not been privy to any of the information the Commission had been given, so he didn't know if any hydrology reports had been done related to this particular tract of land. He asked if anyone present could answer that question for him?

Chairman Wolf said he did not believe the Commission had any information on that, but multifamily housing has to comply with the watershed ordinances; correct?

Mr. Ruska said correct and they would have to submit drainage plans and all of that at the time of site plan approval.

Chairman Wolf said that was not normally something that came to the Commission as an issue for rezoning.

Mr. Rishel said when they looked at the property that was zoned RS-40, they did some research to find out how the area there was going to be developed. They had particular questions about the widening of Guilford College Road. They did research at the Courthouse and found out that the plans through 2015 were going to call for a 3-lane road, the addition of a center turn lane. He understood that, because of some other issues, has been revised and they have seen two different plans that DOT has for the area in front of their home. At this point, he did not think that anything has been definitely decided. But what was related to them by the DOT engineers is that the road itself is going to add approximately 300 percent more water runoff across their property. Their attorney is also an engineer who has done hydrology work. He reported that he also dealt with the DOT engineers and it was their input to both of them that the 60 foot drainage easement that they have is going to be completely overrun and outstripped by the increased water flow. There is a natural constriction at the left rear of their property, which this water flow will cause to be retained in heavy rains and flash flooding type

rains. What is anticipated by DOT probably will cause flooding of their basement. They have suggested that the plan be revised and the water be piped to an existing creek at the left rear of their property as you face it.

DOT has denied their request and they are still in negotiation with that particular aspect. Just within less than 30 days, they learned of this rezoning request. As the Commissioners saw from the photographs, that property slopes towards their property. In fact, when they bought their property, their property, he was told by the Jamestown Engineering who did the survey, protruded across the street an equal distance from the center of the road as the other side, which is the right side as you are facing it, and they own property over in that 5.45 acre area. They agreed to delineate that because there was a single family home there and there was not an issue at that time that there was going to be a change. He had asked his counsel to go back and look at the possibility of reclaiming the property across the street, the lines that they had delineated. That property line was somewhat over, he understood, 400 feet on the left side.

Their attorney also, because he had done some hydrology work and worked in that capacity as an engineer, rendered the opinion that up to 20 additional townhouses with parking, roofs and what have you could increase the water flow over its present level of up to 100 percent. It will prevent the absorption of water into the ground and can affect the area wells, as well. According to DOT, the maximum Federal and State regulations allow a 300 percent increase in water flow. DOT has right up to the maximum moved their plan. There is no room for any additional water flow across their property. It will outstrip the 60 foot drainage easement that they have. They want, instead of one drainage point, to have drainage across the entire front of their property, which does not go into the 60 foot easement. Those are the things that they are negotiating about now. But this additional water flow (80 percent of that property is sloped to drain across their property) will exceed any Federal and State guidelines or regulations. He said he would ask for more time to do more study or to deny the request if a study has not been done at this point to determine how that is going to affect their property values. When they built and when they resurveyed to build their house, they had planned to have two lots to the left of their house eventually and one to the right. This increase in water flow will eliminate the use of that land for the purpose that they had intended.

Todd Walsh, 400 Hasselwood, said one of the pictures showed his house or lot. He owned the two sides adjacent to it. He directed the Commission's attention to the RS-40 on the map and it goes up to the corner and then down right up next to the house that's by the Hassel Park there. All of that is his property. He was opposing this development as it stands thus far for several reasons. a) The 18 units, he didn't know how they came up with their map on that, but he could do math pretty good. According to the formula that the City uses, after you take off the land for the Guilford College Road, it being widened, and he was going to change the property line for .2 acre. When he had his lot surveyed, which Mr. Martin of Coalhouse Ruled knows because they are going to swap lands, it is actually a 10 foot difference in grade between the two lots. They were going to trade land at that point in time, but at that time, he was going to move his fence and they were just going to swap, but it wasn't an issue at that time. Unfortunately, it is now. They purchased their home because the land was once a 100 year old farm and they thought they had enough space for their children to grow. Every house in that neighborhood is a unique, custom-built house and has a large lot and most the residents there do plan to retire at their homes. Cluster style, cookie cutter housing is not

really an acceptable design. That would be too much of a contrast with what is already out there. He would agree with Mr. Isaacson that RS-15 for two or three homes, single detached, would be a better fit. Another condition would be landscaping so as the children are out playing or if there were older people or whoever probably would not hear our noise and they wouldn't want to hear their noise as well either. This development will bring more noise pollution, light pollution, as well as the privacy issues that are being raised. When he talked to Mr. Noel, who is the next one down there, he also was concerned about that. At a minimum, such as the wooden slate fencing and earthen berms, which is what Mid-Atlantic is doing at the one that has recently zoned CU-RM-5, would at least be a start in the right direction. He was concerned about the water as well because his lot, unfortunately, drains from Mr. Martin's lot. He felt this development would destroy the rural characteristic that all the residents seem to enjoy without any infringements of their rights being in that neighborhood.

Mr. Rishel returned to the podium and said in talking with their counsel, one thing that he neglected to bring to the Commission's attention while they were talking about the additional water, was the fact that their attorney also indicated that surely there would be some kind of drainage pond or whatever constructed to deal with any water issues. He also related that if it is a sustained downpour or a flash flood type rain, that the pond would quickly fill and they would still have the additional 100 percent increase in water flowing across their property in addition to what the State has already put out there at 300 percent.

Chairman Wolf asked if the applicant would like 5 minutes of rebuttal.

Attorney Isaacson returned to the podium and stated that life is changing on Guilford College Road in this location. The DOT's decision to widen the road there is an acknowledgment by them that the traffic load has significantly increased. They are taking the necessary steps to provide a safe median and several lanes (there are turn lanes as you see on the map), so he thought it would be safe to say that things are changing in this area of Guilford College Road. He said he understood the resistance to change, but he would submit to the Commission that that is not a reason to deny an appropriate original zoning request. Again, the density here would be approximately 3.5 units per acre. If this were zoned for the standard zoning designation in the City, he thought they would see a number of single family homes, you would see driveways, and you would have school buses or trash truck or other access issues. This is going to be a well coordinated, well planned development that he thought the neighbors would be satisfied with. Many of the issues brought up by the opponents seem to him to be site plan issues that will be addressed during the site planning process. The City Planning Department and Water Resources Department all have a say in how this site plan is handled and there will be significant water control measures, as he understand, that will be applied to the property, including a pond and other water control measures that would be appropriate. He said they had submitted conditions that they think address most of the concerns of the neighbors in a situation like this. It is hard to address the concern if it is: "I just don't want it here." So with a density level that they have here, with the type of quality that is implied in the conditions that are imposed on the property, plus the site plan scrutiny that this project will have, he submitted to the Commission that it is an appropriate zoning. The land use is very appropriate here. It is compatible here, especially in light of the widening of Guilford College Road and the other activity that you see happening in this area.

Chairman Wolf asked if the site plan, once it is submitted to the Planning Department, is it public record, capable of being able to have a copy obtained by these people?

Mr. Ruska responded yes.

Ms. Shipman said her question was that it feels like it was more of an issue of privacy because you will be putting up townhomes in a community that is used to having a lot of space and area. She was just thinking that maybe with interest to their group, would they be willing to put up a privacy fence so as to keep the community private.

Attorney Isaacson responded yes. This was the first they had heard of that concern so this is going to City Council automatically because it is an original zoning and annexation and he was sure they will be looking at that, but that is a site plan issue that his client would have to look at in developing the property. He would point out though that with a clustered development such as this and it is intended again to be one-story, although that is not a condition and he understands it is not enforceable at this point, but the intent is to have the marketing materials provide for one-story attached single family home development. He submitted that when you cluster property like that and make it a more efficient use of space, what you end up with is more open space at the exterior corners of the property. In other words, a detached single family development may well end up more spread out and you may have taller homes, you may have homes closer to the edges of the property than you would if you had a very efficient, but low density project such as this.

Mr. Byrd said some of the comments he had heard that the implication has been that there's a concern here that these are townhomes in the midst of a single family development. When he looks at the rezoning request, he looked at townhomes in the same light as he looks at single family detached. They are just attached dwellings and when we start talking about buffering those, he just didn't see that as necessary when you're putting a townhome development in an area where there is single family development. He just thought that leads to secluding neighborhoods. So he did want to speak to that and when citizens stick around for a long session like the Commission had had today, he didn't want them to think we are not hearing their concerns. But he did hear that concern, he just disagreed with the implication of the concern.

Attorney Isaacson said he would also point out to the Commission and the people who have expressed concerns that just because they hadn't said there would be a buffer doesn't mean there is no buffer. There are pointing requirements in buffer areas that are required by the City Development Ordinance so that is inherent in such a development.

Chairman Wolf asked if the opponents would like 5 minutes of rebuttal.

Mr. Walsh said they were missing a lot of data from these four pictures. There was no pictures that showed the actual behind the house where there was 5 barns, 5 original barns from when that was a farm, and looking at his backyard and to the back of the Boles' and Barts' yards. Eighteen is too many; it needs to be single family homes. And there should be a buffer. If there are single family homes, they might not have as much a need for a buffer. As far as the privacy issue, that is correct. He was probably the youngest one in that whole block.

The others either have kids his age with grandkids. But it will be a travesty to see that property turned into that type of development.

Mr. Rishel said he would be the first to admit that he would like to see similar homes built there as they are building in Jamesford Meadows or are now being built in your RS-12 areas. Unfortunately, that is probably not an option here. But they would like, if this were going to be done, to find an alternate way to deal with the additional water that would have flowed across his property as underground piping to the rear to the existing creek.

Chairman Wolf said he would encourage Mr. Rishel to follow up with the Planning Department. He said he was in favor of this request, but that doesn't mean that Mr. Rishel should not get from the Planning Department when they submit their development plan, you should get those and coordinate them with his consultants because he had empathy for him. He had dealt with clients who, when NCDOT comes through, they are real quick to want to just dump the water out on your property and let you deal with the consequences of it. He said all NCDOT was worried about was getting an easement to be able to dump it onto bordering property. They will not usually participate in getting it through your property back to an appropriate stream. They want you to be the stream to get it back there. So if this is going to aggravate his circumstances, Chairman Wolf said he would encourage him to get their site plan and figure out what kind of water will come off of their property. He would expect some of it would be impounded. But he was right, when there are heavy storms, the impounding doesn't take care of that first flush, once they are full. He encouraged Mr. Rishel to get that plan and see how it coordinates with what NCDOT is doing to try to mitigate what is going to happen.

Mr. Morgan said the Planning Board voted unanimously to recommend annexation of this property at the April 20, 2004 meeting. The property is in Tier 1 where infrastructure systems are in place and will continue annexation and consolidation of City development boundaries which shall be encouraged over the next 10 years. The density of this proposal was 3.7 units per acre and it has direct access to a major thoroughfare. Property along Old Salem Drive to the south is zoned RS-12, the Jamesford Meadows Subdivision in the City of High Point is zoned CU-RS-12. Additionally, a tract of land on the west side of Guilford College Road opposite the RS-12 zoned property to the south has been recently rezoned to RM-5. The current rezoning calls for townhomes and is supported by the Comprehensive Plan policies that address compact development, mixed housing types and diversification of new housing stock. The density of this request falls short of its designated moderate density residential land use classification, but the proposed units are similar in density to its surroundings, while still offering a diversification in housing stock. The Planning Department recommends approval.

Mr. Gilmer moved Item E, an ordinance establishing original zoning from County Zoning RS-40 Residential Single Family to City Zoning Conditional District - RM-5 Residential Multifamily, subject to the conditions set forth in the application, seconded by Mr. Byrd. The Commission voted 7-0 in favor of the motion. (Ayes: Wolf, Collins, Shipman, Gilmer, Schneider, Byrd, Haynes. Nays: None.)

Chairman Wolf declared a 10 minute break.

**E. AN ORDINANCE REZONING FROM CONDITIONAL DISTRICT – LIGHT INDUSTRIAL WITH THE FOLLOWING CONDITIONS: 1) USES: ALL THOSE USES PERMITTED IN THE LI ZONING DISTRICT EXCEPT NO NEW BILLBOARDS WILL BE PERMITTED. 2) NO ACCESS WILL BE PROVIDED TO NEVILLE ROAD UNTIL SUCH TIME AS THE PROPERTIES TO THE EAST AND WEST ARE ALSO ZONED TO AN LI OR SIMILAR ZONING DISTRICT. 3) TRIAD DRIVE WILL BE EXTENDED TO THE PROPERTY AS THE PRIMARY ACCESS FOR THE PROPERTY. TO CONDITIONAL DISTRICT – LIGHT INDUSTRIAL WITH THE FOLLOWING CONDITIONS: 1) USES: ALL THOSE USES PERMITTED IN THE LI ZONING DISTRICT EXCEPT NO NEW BILLBOARDS WILL BE PERMITTED. 2) NO ACCESS WILL BE PROVIDED TO NEVILLE ROAD, EXCEPT FOR EMPLOYEE PARKING, UNTIL SUCH TIME AS THE PROPERTIES TO THE EAST AND WEST ARE ALSO ZONED TO AN LI OR SIMILAR ZONING DISTRICT. 3) TRIAD DRIVE WILL BE EXTENDED TO THE PROPERTY AS THE PRIMARY ACCESS FOR THE PROPERTY. - FOR A PORTION OF THE PROPERTY LOCATED ON THE NORTH SIDE OF INTERSTATE 40 SOUTH OF NEVILLE ROAD AND WEST OF TRIAD DRIVE – FOR BLAND ENTERPRISES, L.L.C. (APPROVED)**

Mr. Ruska presented a map showing the subject property, as well as surrounding properties. He also presented slides of the subject property and surrounding properties.

Chairman Wolf asked that the applicant come forward to the podium to speak.

Charlie Melvin, Esq., 300 North Greene Street, said he was assuming with the last item on the agenda, brevity gets a lot of consideration and credit. He had put on the screen a site plan that he would make a couple of comments about. However, he said the only purpose of their being here, and Mr. Ruska charged \$1,000 for this, was to change one condition. In the conditions that presently exist for this property, no access was permitted to Neville Road. He gave a brief history of the subject property. Mr. Bland wants to build a new, state of the arts dealership, distributorship for his heavy Mack Truck sales. He has had more problems than on a law school real property exam with assembling this property. He now thinks he has all the problems worked out and one thing he has to do is to build an oversize sewer lift station, but Attorney Melvin said Mr. Bland was now ready to go. As part of the design, you can see where his employee parking will be up to the northern part of this property. One of the zoning conditions is that he must extend Triad Drive. That was a part of the plan all along. He doesn't have a lot of trucks coming and going; he just sells new trucks and he has, of course, trucks coming in for service.

He does want to segregate his employee parking and have that come in, rather than Triad Drive, through Farrington and Neville. There is a little loop of Cider Road there. When he gets this facility up and running, he will have 35 to 40 employees there. He runs two shifts, 6:30 a.m. to 2:45 p.m. and 3:00 p.m. to 12 midnight. He will have about 12 employees on the second shift and about 20 employees on the first, so the traffic generated by this facility is negligible. Mr. Shuler has sat through this long meeting because he is interested in this item. He lives at the end of Neville Road and there are some considerations about improving



Farrington and Neville that he and Mr. Bland have a community of interest in. Mr. Shuler has been working with Lane Hall at NCDOT. The applicant, of course, talked with GDOT and they think that they are in sync with all this. The whole purpose of coming before the Commission today was to modify that one zoning condition, which said no access to Neville Road, so that it now says no access to Neville, except for employee parking, until such time as there is more LI or HI zoning out there.

Chairman Wolf asked if there was anyone who wished to speak in opposition to this request, and no one came forward.

Mr. Morgan said this property was zoned CU-LI by Guilford County prior to the 2002 request for annexation and original zoning. The original zoning contained a condition that enhanced the proposal, which was that Triad Drive be extended to the property as the primary access. At that time, a condition was included that prohibited access to Neville Road until such time as the property was rezoned to LI or a similar zoning district. That condition was primarily intended to restrict truck traffic on Neville Road in conjunction with the use of the subject property for a Mack Truck distributorship. The current request modifies the condition to permit employees to access the site for parking purposes. A site plan is being developed, which provides for an employee parking lot on the north side of the property between the proposed principal building and Neville Road. Such a parking lot would require access to Neville Road. At the time of original zoning, staff pointed out that the area north of this property extending to the West Market Street and back to Sandy Ridge Road is, for the most part, zoned Industrial or is definitely trending in that direction and that the original zoning request was compatible with that trend in land use. This property lies within the 60 DNL noise contour, which in this area includes the area south and west of the terminus of Neville Road. This noise contour was used in the Airport Area Plan to define the noise impact area and to divide the planning area to residential and non-residential categories. Industrial zoning for this property is consistent with both the Airport Area Plan and the Generalized Future Land Use Map of Connections 2025, which designates this area as Industrial-Corporate Park. The Planning Department recommended approval of the change in this rezoning.

Mr. Gilmer moved approval of Item F, an ordinance rezoning from Conditional District - Light Industrial, subject to certain conditions, to Conditional District - Light Industrial, subject to certain conditions as set forth in the application, seconded by Ms. Shipman.

Chairman Wolf said for the record there was one abstention. Mr. Byrd says his law firm represents the applicant, so we have 6 people voting on this.

The Commission voted 6-0-1 in favor of the motion. (Ayes: Wolf, Collins, Shipman, Gilmer, Schneider, Haynes. Nays: None. Abstain: Byrd.)

#### **ITEMS FROM THE PLANNING DEPARTMENT:**

Mr. Ruska said he wanted to alert the Commissioners to the fact that the June meeting will be a lengthy one. There will be original zoning that is associated with 12 City-initiated annexation areas that the Council recently voted to annex. It is going to be a mixed bag of very small, donut hole, filling in properties to more extensive areas. So just going through those 12

annexation areas will take some time. But on top of that, Friday was a deadline for new applications and they got a bunch. So it will be a lengthy meeting.

Chairman Wolf said Mr. Ruska had told him earlier that the annexation requests have all been heard by Council already. So just be aware that he will be cutting people off. The only topic is going to be what is the appropriate zoning. Talking about increased ad valorem taxes, City services, etc., will be totally irrelevant and he would cut that kind of discussion off or the Commission will be here until 9 o'clock at night.

Mr. Ruska said they have now been through several months of the written staff reports and he would just like to get some feedback on what the Commissioners think of the written reports or if they preferred, they could e-mail him any comments you have.

Mr. Byrd said he did not have anything specific in mind. He would give it some additional thought and e-mail Mr. Ruska any specific comments. But as a general matter, he thought they had been very helpful, particularly having them in advance when you go to visit the site.

Mr. Gilmer said he agreed with that too. It was really helpful.

**ITEMS FROM THE ZONING COMMISSION MEMBERS:**

None.

**ACKNOWLEDGMENT OF ABSENCES:**

Chairman Wolf said the record should reflect that Ms. McDonnell was absent.

\* \* \* \* \*

There being no further business before the Commission, the meeting was adjourned at 6:20 p.m.

Respectfully submitted,

Robert W. Morgan  
Assistant City Manager

RWM/jd.ps